



COUNCIL MEETING NOTICE/AGENDA

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DATE: Wednesday, January 25, 2012
TIME: 10 a.m. – 5 p.m.
LOCATION: Doubletree Hotel
2001 Point West Way
Sacramento, CA 95815
(916) 929-8855

Pursuant to Government code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in this meeting should contact Robin Maitino at (916) 322-8481 or email robin.maitino@scdd.ca.gov. Requests must be received by 5:00 pm, January 19, 2012.

**Denotes action items*

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1. CALL TO ORDER	L. Shipp
2. ESTABLISHMENT OF QUORUM	L. Shipp
3. WELCOME/INTRODUCTIONS	L. Shipp
4. PUBLIC COMMENTS	

*This item is for members of the public only to provide comments and/or present information to the Council on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Council will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.*

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12. SPONSORSHIP REQUESTS

C. Risley

- * (i) Assistive Technology Expo
- * (ii) Autism Conference

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13. ADJOURNMENT

L. Shipp



DRAFT

Council Meeting Minutes September 21, 2011

Members Present

Jennifer Allen
Michael Bailey
Catherine Blakemore
Dan Boomer
Max Duley
Ray Ceragioli
Lisa Cooley
Terri Delgadillo
Marcia Good
Robin Hansen
Bill Moore
Patty O'Brien-Peterson
Wayne Sauseda
Leroy Shipp
Steve Silvius
Kerstin Williams

Members Absent

Jorge Aguliar
Lora Connolly
Toby Douglas
Denise Filz
Robert Jacobs
David Mulvaney
Olivia Raynor
Jennifer Walsh

Others Attending

Dena Hernandez
Robin Keehn
Angie Lewis
Robin Maitino
Dawn Morley
Carol Risley
Margaret Shipp
Rocio Smith
Vicki Smith
Mark Starford
Joe Bowling
Mary Agnes Nolan
Melissa Corral
Robert Newton
Anastasia Bacigalupo
Dwight Hansen
Joan Burg
Mary Ellen Stives
Greg Hamtil
Alice Tapley
Robert Phillips
Will Sanford
Mareva Brown
Carl London
Rick Ingraham
Joe Jaquez
Tammy Eudy
Holly Bins
Jacquie Foss
Michelle Ramirez

1. **CALL TO ORDER/ESTABLISHMENT OF QUORUM**

Leroy Shipp, Chairperson called the meeting to order at 10:00 a.m. and established a quorum present at 10:05 a.m.

2. **WELCOME AND INTRODUCTIONS**

Council members and others attending introduced themselves.

3. **PUBLIC COMMENT**

Greg Hamtil spoke about his daughter and the family's decision to move her into a community care home two years ago due to the loss of respite services.

Mr. Hamtil believes the parental fee program is being misinterpreted to include the parents of children on the Home and Community-Based waiver. He further believes that the USDA data used to support these fees is not fair or reasonable.

Mr. Hamtil submitted a letter which described in more detail the issues. He requested a written response from the Council.

4. **APPROVAL OF JULY 2011 MEETING MINUTES**

It was moved/seconded (Bailey/Boomer) and carried to approve the July 27, 2011, Council meeting minutes as presented.

5. **2011-12 DDS BUDGET UPDATE**

Terri Delgadillo provided a comprehensive report on the various budgets and reductions since March 2011. Changes in March included:

- Regional center board oversight of contracts in excess of \$250,000;
- Standardized conflict of interest reporting;
- Audits;
- Accounting and transparency;
- 15% cap on administrative costs;
- Compliance with Medicaid integrity rules; and
- Third party liability.

In June 2011 DDS received credit for savings and a reduced caseload estimate, as well as pursuing a 1915K waiver for personal services. DDS was also successful in being able to bill Medicaid for transportation and day services provided to residents of ICF/DD facilities. Renewal of the HCBS waiver is in process and working on a 1959 State Plan amendment to cover more services. Terri noted that all regional centers achieved the expected operations savings and while there are less funds for the Community Placement Plan, those funds remain adequate. Others changes include:

- Implementation of the annual family program fee;
- Retention of 18-22 year olds in education programs if appropriate;
- The assessment process of shared tasks in supported living;
- Alternative day services;
- Verification of the delivery of services;
- Transfer of Prevention Program to the Family Resource Network;
- Integrated transportation planning;
- Use of Financial Management Services for vouchered services;
- Impact of closure of Adult Day Health Centers; and
- Changes in dental services.

Terri also discussed the trigger passed by the Legislature which includes the potential for up to an additional \$100 million reduction in the developmental services system in 2011-12. Terri clarified that if the trigger is activated, savings is not solely attributable to the regional center budget but from the entire developmental services budget. DDS is monitoring expenditures and caseloads carefully to identify potential savings and is focused on savings rather than reductions. The status of the trigger will not be known until late December 2011 and if implemented will be applied to the remainder of the 2011-12 fiscal year.

The Council thanked Terri for her thorough report. In response, the Council Self-Advocates Advisory Committee recommended the following:

- Keep reduction as far away from consumers as possible;
- Consolidate finance departments, executive directors, operations of regional centers to minimize cuts to services. Make cuts in regional center operations rather than for consumers; and
- Give adequate notice to consumers in advance of any changes. Notice needs to be provided in ways people understand.

6. REGIONAL CENTER CONFLICT OF INTEREST WAIVER REQUEST – PROPOSED REVIEW PROCEDURE

Melissa Corral reported on the Council's request that the Executive Committee develop Council procedures/guidelines for considering waiver requests.

It was moved/seconded (Blakemore/Silvius) and carried to adopt the revised process as presented and pursue changes to the Welfare and Institutions Code to remove area boards and the Council from the waiver approval process.

7. RCRC CONFLICT OF INTEREST WAIVER RENEWAL REQUEST

Pursuant to Welfare and Institutions Code Section 4628 and the California Code of Regulations, Title 17 Section 54524, both the local area board and State Council must approve or deny conflict of interest (COI) request submitted by a regional center.

The Redwood Coat Regional Center requested a COI waiver be granted for Beverly Fontaine (approved by Area Board 1).

It was moved/seconded (Bailey/Hansen) and carried to add the stipulation that Ms. Fontaine recuse herself from any discussion, and/or vote which may present a conflict. (1 no, 1 abstention)

It was moved/seconded (Bailey/Silvius) and carried to approve the waiver request with the added stipulation. (1 no, 1 abstention)

8. MERIT SALARY ADJUSTMENTS BRIEFING

The following questions were posed to Melissa Corral with regard to salary adjustments for exempt employees:

1. What are the differences between exempt and civil service employees?
2. What are Merit Salary Adjustments (MSAs) and when do they apply?
3. What/who is an appointing authority?

4. Who has the authority to determine salary adjustments for exempt employees at the Council?

Ms. Corral researched the questions and reported her findings to the Council. She clarified that while civil service employees are granted incremental salary steps until they reach the top of their salary range; exempt employees are eligible for 5% increases on their annual anniversary up to the top of their salary range. All increases must be approved by the employees' supervisor. Her research concluded that the appointing authority/supervisor for the Council Executive Director is the Council, while the Executive Directors of each area board are appointed by the Executive Director of the Council upon the recommendation of the area board and with the approval of the Council. She concluded that the Executive Director of the Council has the final authority for approving salary increases, within the DPA established salary ranges, for the area board executive directors.

Following discussion, the Council requested staff seek a formal opinion from the Attorney General on these issues.

9. **COMMITTEE REPORTS**

a. **EMPLOYMENT FIRST**

Carol Risley provided an Employment First report in the absence of Olivia Raynor. The first annual report was submitted to the Legislature and Governor in August 2011. The Assembly Human Services Committee conducted a hearing on employment first. Olivia Raynor represented the Council and Bill Kernan from Massachusetts testified in support of the report findings and recommendations. Molly Kennedy also spoke as a self-advocate.

The next Employment First Committee meeting is set to for October 26, 2011.

b. EXECUTIVE

(i.) Executive Director Evaluation (closed session)

Leroy Shipp convened a closed session to discuss the evaluation of SCDD Executive Director, Carol Risley.

(ii.) Executive Director Evaluation (open session)

Leroy Shipp reconvened the Council in open session. The following actions were taken with regard to the executive director evaluation.

It was moved/seconded (Good/Boomer) and carried to award the SCDD Executive Director a 5% merit increase.

It was moved/seconded (Good/Bailey) and carried to develop an executive director evaluation standard policy for area boards and the Council to promote consistency.

c. SELF-ADVOCATES ADVISORY COMMITTEE

Jennifer Allen, Lisa Cooley, and Michael Bailey provided an overview of the Committee's organization, operating rules, goals and action plan, and leadership development.

10. COUNCIL MEMBER REPORTS/COMMENTS

Kerstin Williams announced the Area Board 6 Annual Barbecue would take place on September 26, 2011.

Robin Hansen announced that author Luis Montalván would be speaking at the M.I.N.D. Institute on September 28, 2011. Luis is an Iraq vet who suffered a traumatic brain injury and subsequently wrote a book entitled Until Tuesday.

There are two educational conferences at the M.I.N.D. Institute on October 25, 2011, "The Mind Distinguished Lecture Series," and "Minds Behind the Mind."

State-wide training of teachers continues. This year the training focuses on providing services to children with autism spectrum disorders in middle and high school.

The M.I.N.D. Institute has developed a series of workshops focused on youth transition and mentoring. The next workshop entitled Success Defined is scheduled for November 5, 2011. The target audience is for youth between the ages of 16 and 22 and their families.

The M.I.N.D. Institute has also developed collaboration with the UCEDD and Infant Development Association to do a series of conferences.

Patty O'Brien-Petterson attended the Lake County Special Education Local Planning Action Community Advisory meeting and found it very interesting.

Lisa Cooley continues to share the accomplishments of the Employment First Committee and Self-Advocates Advisory Committee with the local community.

Steve Silvius thanked Carol Risley for attending the Area Board 8 meeting and bringing the "Feeling Safe, Being Safe" booklets.

He gave an update on Matt Silvius' micro-business. They may be getting an order for 200 backpacks. Steve is very excited.

Jennifer Allen will be attending the educational conference at the M.I.N.D. Institute at the end of the month.

Jennifer also talked about a group called the Self Advocacy Coordination Project. This is a local group that has asked Jennifer to do a presentation on the Council in 2012.

Marcia Good spoke about her experience with the Council the past six years and how enriching it has been, in large part because of Roberta Newton, Area Board 10 Executive Director. Marcia went on to say that she encourages all area board executive directors to speak with their board members on a regular basis and let them know what is going on.

Michael Bailey reported on Area Board 11 meeting that took place the second week of September. The majority of the discussion was focused around adult day health care. He went on to say that CalOptima is preparing to implement a program that will replace the adult day health care in Orange County with a program called PACE.

Michael has been working with the Regional Center of Orange County, and several others organizations to bring awareness about an program called Dog Wish. This program provides trained service dogs to children with severe autistic disorders and persons with seizure disorders. RCOC and Inland Regional Center is getting ready to launch a pilot program with Dog Wish.

11. CHAIRPERSON'S REPORT

Leroy Shipp reported that he would be attending the NACCD meeting and Alliance for Full Participation Summit 2011 in Washington D.C. in November with Carol Risley and therefore not present for the November 2011 Council Meeting.

Leroy also talked about the difficulty his son is having finding a job and how the Council needs to help change the social norm concerning persons with disabilities.

Leroy would also like to see the Council consider changing its name to something like, "Developing Capabilities."

12. EXECUTIVE DIRECTOR'S UPDATE

Carol Risley also reported that she would not be at the November Council meeting due to travel on behalf of the Council. Michael Bailey, Vice Chair, will be chairing the November meeting.

13. ADJOURNMENT

Meeting was adjourned at 4:25 p.m.



DRAFT

Council Meeting Minutes November 17, 2011

Members Present

Jennifer Allen
Michael Bailey
Dan Boomer
Ray Ceragioli
Lisa Cooley
Bill Moore
Patty O'Brien-Peterson
Kerstin Williams
David Mulvaney
Jorge Aguiar
Jennifer Walsh

Members Absent

Lora Connolly
Toby Douglas
Denise Filz
Robert Jacobs
Olivia Raynor
Catherine Blakemore
Max Duley
Terri Delgadillo
Robin Hansen
Wayne Sauseda
Steve Silvius
Leroy Shipp

Others Attending

Dena Hernandez
Angie Lewis
Robin Maitino
Rocio Smith
Mary Agnes Nolan
Robert Newton
Joan Burg
Rick Ingraham
Fran Goldfarb
Chris Arroyo
Molly Kennedy
Molly Nocon

1. **CALL TO ORDER/ESTABLISHMENT OF QUORUM**

Michael Bailey, Vice Chair called the meeting to order at 9:55 a.m. A quorum was not established.

2. **WELCOME AND INTRODUCTIONS**

Council members and others attending introduced themselves.

3. **PUBLIC COMMENT**

Molly Kennedy announced the upcoming Cerebral Palsy Conference at Rancho Los Amigos Hospital on March 9 and 10, 2012.

Molly also shared that she is working on putting together a statewide workgroup which focus will be on primary health care issues for adults with developmental disabilities.

4. **APPROVAL OF SEPTEMBER 2011 MEETING MINUTES**

Since a quorum was not present, no action taken. These will be considered at the January Council Meeting.

5. COMMITTEE REPORTS

a. EMPLOYMENT FIRST

On October 26, 2011, the Employment First Committee met and discussed the process made by the various agencies to increase the number of individuals with developmental disabilities working in integrated competitive employment.

The Committee reviewed the goals and strategies that were included in the report submitted to the Governor and Legislature in August 2011. They reached a consensus on what the Committee believes the Council should focus its employment related activities on during 2011-12. The consensus was to focus on education and training, particularly to enhance the expectation of families, educators, and service providers that individuals with developmental disabilities can and should work and the need to prepare students for work.

A legislative update on the status of Assembly Bill (AB) 254 was also given to the Committee that resulted in a motion to request the Council sponsor and/or co-sponsor AB 254 in order to place the proposed employment first policy into statute. Since a quorum was not available, no action was taken and the issue was referred to the Executive Committee.

b. LEGISLATIVE AND PUBLIC POLICY

- (i.) Assembly Bill 1244 – LPPC recommends a continued position of supporting AB 1244. Due to lack of quorum, no action taken; referred to Executive Committee.
- (ii.) Assembly Bill 254 – LPPC recommends the Council sponsor AB 254. Due to lack of quorum, no action taken; referred to Executive Committee.
- (iii.) 2011-12 State Budget – Ray Ceragioli provided a recap of the report that Terri Delgadillo gave at the September 21, 2011 Council meeting. He talked about Tier 1 and Tier 2 triggers and how they would likely effect individuals with developmental

disabilities. Below is a list of possible cuts should the triggers be pulled:

- Reduce funding for developmental services. (\$100 million)
- Reduce service hours for In-Home Supportive Services (IHSS) recipients by 20 percent. (\$100 million)
- Extend Medi-Cal provider cuts and copayments to all managed care plans. (\$15 million)
- Eliminate funding for local antifraud efforts in IHSS. (\$10 million)
- Reduce school year by seven day. (\$1,540 million)
- Eliminate Home-to-School Transportation. (\$248 million)

LPPC recommended that the Council oppose any further reductions in 2011-12 to the developmental services system and other services impacting individuals with developmental disabilities. Due to lack of quorum, no action was taken; referred to Executive Committee.

- (iv.) SCDD Legislative Update – Ray Ceragioli noted that everyone received a copy of the list of SCDD Legislation in their meeting packets.

c. SELF-ADVOCATES ADVISORY COMMITTEE

Jennifer Allen provided the Committee's report. SAAC met on November 16, 2011, they discussed and recommended support on the following Council action items:

- AB 254 – Employment First Policy
- AB-1244 – Developmental Service: Self-Determination
- Jay NOLAN sponsorship
- Budget Update – SAAC concurs with LPPC's recommendation to oppose further reduction of services.

SAAC passed a motion to recommend that DDS provide timely information to Consumers when service reductions will happen.

The Committee also worked on their Committee mission statement as well as personal mission statements.

6. SPONSORSHIP REQUEST

Roberta Newton provided the Council with an overview for the Jay Nolan Community Services sponsorship request. Due to a lack of quorum, not action was taken; referred to Executive Committee.

7. NOMINATING COMMITTEE APPOINTMENT

Michael Bailey announced the members of the Nominating Committee appointed by Leroy Shipp are:

Steve Silvius, Chairperson
Dan Boomer
Michael Bailey

8. NOAH HOMES VIDEO

Molly Nocon, Executive Director of Noah Homes presented a video outlining the numerous amenities that their facility offers to individuals with developmental disabilities.

Noah Homes provides residential homes and services for adults with developmental disabilities. Noah Homes living environment promotes security and well being in order to maximize independence.

The video captured the unique benefits that Noah Homes offers its residents.

9. COUNCIL MEMBER REPORTS/COMMENTS

Michael Bailey attended the November Area Board 11 meeting the week of November 6, 2011 where they discussed potential cuts if the trigger was pulled. Cal-Optima was present.

Larry Landauer, Executive Director at Regional Center of Orange County notified AB 11 that they are getting ready to implement the new financial management services requirement mandated by Medicaid.

The Transit Advocates of Orange County presented on the bus system and were able to keep most of the bus stops in Orange County.

Jennifer Allen is doing a presentation in February with a local advocacy group to get the word out about SAAC and the Statewide Self-Advocacy Network.

Lisa Cooley presented at the Department of Developmental Disabilities, Consumer Advisory Committee on November 8 and 9, 2011, on the Statewide Self-Advocacy Network. Lisa continues to update Alta Regional on Council activities such as Employment First.

Lisa is also planning to present on the Statewide Self-Advocacy Network to the local area board.

Jennifer Walsh attended the Golden Gate Self-Advocacy Conference on September 21, 2011. The conference took place at the state building in San Francisco where there was over 150 people in attendance. There were several workshops and Molly Kennedy was the keynote speaker.

There was a lunchtime demonstration to save Medicaid that took place in front of City Hall. Many conference participants attended.

Dan Boomer reported that the Department of Education is still working on the alternate exit exam for students with developmental disabilities.

Fran Goldfarb reported that the UCEDD is in the process of developing their application. They have been engaged in conducting a number of telephone focus groups and gathering input from the community on priorities.

Rick Ingraham reported that Terri Delgadillo is going to reorganize the different divisions within the Department.

Julia Mullen has stepped down as Deputy Director of Community Services and Support. Rita Walker has retired so Brian Winfield is Acting Deputy of the Community Operations Division.

DDS is the lead agency in California for the Part C Early Start. New federal regulations have been released. Please visit www.nectac.org for a 20-minute video that provides an overview of the new regulations.

Patty O'Brien-Peterson attended the Area Board 1 meeting where California Mentor presented on "bringing care closer." The organization strives to bring people out of institutions and hospitals and into home environments.

Their mission statement reads:

"The mission of the California Mentor is to offer adults innovative, quality services and supports that lead to growth and independence regardless of physical intellect or behavioral challenges they face."

10. **ADJOURNMENT**

Meeting was adjourned at 12:15 p.m.

Prime the Pump for Good Jobs with Benefits

The California Supported Employment Field Demonstration Project

Abstract

This four year field demonstration project seeks to study and demonstrate that aligning job development incentives with desired job placement outcomes will increase the placements of people with developmental disabilities into good jobs with benefits and effect savings for the state and federal government.

Project methods include testing a new incentive system that will reward Supported Employment agencies when they help to place individuals with developmental disabilities in good paying jobs with benefits. It will build the capacity of partner agencies to develop jobs with benefits in non-traditional industries. It will furthermore develop and deliver advanced training to employment services staff that will increase their skill and build the capacity the agencies in the areas of job coaching, benefits planning and job development generally.

The innovations in the Field Demonstration Project are replicable. The evaluation methodology design will include assessing outcomes and identifying successful strategies for review and consideration by policymakers.

A successful field test demonstration project would lead to more people with disabilities benefiting from the dignity of work, lower reliance on state funded supports, and increase integration with non-disabled peers because of jobs that lift participants out of chronic poverty. A successful field test would demonstrate savings for government partners that could pay for replication of successful strategies statewide and nationally.

Problem Statement

Individuals with developmental disabilities who work in paid, integrated settings in the community have a higher quality of life, better health outcomes, more access to social relationships with nondisabled people, and have more options for leisure and recreation. In addition they use less publicly funded healthcare, less publicly funded services/resources in general and pay taxes like everybody else who works. In short, good jobs for people with developmental disabilities is good policy and a win for everyone.

The current employment rate of individuals with disabilities is less than 18% compared with almost 64% for those with no disability, and too many of those with developmental disabilities are employed marginally making subminimum wage.ⁱ Approximately 425,000 Americans with disabilities receive vocational services nationwide that result in employment that pays subminimum wages. Yet, the technology of supporting people in jobs is expanding and we know so much more about what people can do. People can work with the right training and supports. Not only that, people with disabilities are an asset to the workplace. Employers of people with developmental disabilities report that they are hard workers, learn new skills, are well liked, and can improve moral. With thousands of unemployed individuals with developmental disabilities, this is an untapped workforce with enormous potential for diverse business sectors.

The California rate structure for service delivery perversely encourages the placement of people with developmental disabilities in segregated low paying jobs with little to no future.^{ii iii} The net effect is that there is a state of declining employment outcomes by Supported Employment (SE) providers into good jobs with benefits. For example, in 2008/9, of the 72,634 regional center clients receiving day services, only 7% were supported in integrated competitive employment (CA DDS data). This is sad and ironic given the recent, heightened California policy emphasis on integrated employment for people with developmental disabilities. We note that the U.S. Supreme Court's Olmstead Decision stipulates that public tax dollars must be used to provide services in the most integrated setting, and the fact that segregated services are actually more expensive to the state.^{iv,v,vi}

Objective

Our primary goal is to demonstrably increase the number of individuals with developmental disabilities, served by the four participating agencies, to acquire good jobs with benefits that increase independence, economic well being and community integration. We intend to demonstrate that aligning incentives for Supported Employment providers with desired employment outcomes would result in an increase in individual placements in good jobs with benefits. Furthermore, we plan to show that these placements will result in measurable savings to the state and federal government. Lastly, we plan to disseminate the results of our field test to state and federal policy makers to motivate government to make the changes needed to implement the results of this localized field test in wider areas.

Potential Savings to Government: the Project Posits:

- The California Department of Health Care Services (DHCS) will achieve measurable savings when Supported Employment agencies place clients into jobs that provide employer sponsored health coverage. Under current law, employer sponsored health insurance would serve as the primary health care provider and payer, reducing costs to Medi-Cal. The Center for Medicaid and Medicare Services will achieve savings commensurate with the Medi-Cal savings to DHCS.
- The California Department of Rehabilitation (DOR) will receive increased revenues as more DOR clients are placed in jobs that pay more than Substantial Gainful Activity (SGA) levels over longer periods of time. When DOR clients earn more than SGA, the department is reimbursed by Social Security for their costs with that placement.^{vii}
- The California Department of Developmental Services will achieve measurable savings from reduced reliance on more costly group and sheltered work programs and day program services.
- The Social Security Administration and the State of California will achieve savings when employed individuals require less or no SSI/SSP payments.^{viii}

Research Outcomes

A planned evaluation will answer the following questions regarding the Supported Employment providers participating in this field test:

1. Will the incentive system result in more individuals being placed in integrated employment?
2. Will the incentive system increase the number of individuals employed making more than SGA?
3. Will the incentive system increase the number of individuals employed in jobs with benefits?
4. Will the incentive system result in savings to the California Department of Health Care Services, the Center for Medicare and Medicaid Services, the California Department of Developmental Services, the Social Security Administration, and/or the California Department of Rehabilitation?
5. Which job development strategies were most effective in securing placements in general and placements with benefits in particular?
6. What effects occurred in the numbers of new placements and their job retention that could be linked with advanced training for Supported Employment Staff in the areas of job coaching, job development, and benefits counseling services at the four agencies?

Ticket to Work – Missed Opportunity for People with Developmental Disabilities

Social Security's Ticket to Work Program (TTW) helps beneficiaries who live with a significant disability find work by providing each of them with a "Ticket" which they can give to one of the growing number of "Employment Network" (ENs) service providers. The Ticket program works by giving ENs incentive payments from the Social Security Trust Funds when the client they serve reaches certain employment earnings milestones and outcomes.

To date, the Ticket program in California has not been successful in attracting wide participation from service providers in the developmental disabilities community, especially when the California Department of Rehabilitation (CA DOR) funds the actual job placement and initial job coaching services until the consumer has stabilized on the job. Under current rules, the consumer

cannot give a Supported Employment provider their Ticket until after the Department of Rehabilitation closes the case. *Also under current Social Security Ticket program rules, when CA DOR closes such a successful job placement case, the Ticket program Phase 1 Milestone payments become unavailable for any post employment support to any service provider. This means that for each placement over \$5,000 in revenues is being left on the table and not paid to any provider in California.*

Supported Employment services can be time consuming and costly. The Ticket program Phase 1 Milestone payments have been unavailable, and Phase 2 Milestone payments take place too far after job placement to be an effective incentive to providers. The net effect is that California is not experiencing increases in innovative employment services that Congress sought when first authorizing Ticket to Work program payments twelve years ago (Ticket to Work and Work Incentives Improvement Act 1999).

We posit that far too many Californians with developmental disabilities are unemployed or earn subminimum wages because the service delivery systems need more focused resources than those available to facilitate job matches and outcomes that pay good wages with benefits in the workplace. We posit that we need field tests that prime the pump to prove our case.

Prime the Pump – Field Demonstration Incentive System

Investment in Increased Capacity - Since chronic underfunding of job development has resulted in decreased capacity, four participating Supported Employment agencies receive a one-time \$60,000 grant to hire and train staff responsible for developing the types of jobs favored by this project. Future job development will be funded through the normal rate structure plus ongoing incentive payments for employment outcomes. The project will also facilitate co-mentoring job development techniques among the partners, and will provide targeted training and support in effective outreach to new employment sectors, particularly those that are unionized.

Incentivize Integrated Competitive Employment - The field demonstration project is limited to IP supported employment, in order to incentivize employment in natural work settings, among non-disabled peers, at least minimum wage, and where the employer is not the DD/SEP agency. Eligible clients must be served through the Department of Rehabilitation Habilitation program.

Incentivize Growth - For each placement, an agency will receive a \$1275 incentive payment when a client has earned at least \$720 per month for 6 of the last 12 months (comparable to Ticket to Work Phase One Milestone Three). A second payment will occur when that client has earned at least \$720 per month for 9 of the last 12 months (comparable to TTW Milestone Four).

Incentivize Jobs with Benefits - All placements that result in access to employer based benefits will trigger an incentive payment of \$1275 when benefits start for the new employee and another \$1275 incentive payment after the employee has had benefits for 6 months. These incentive payments are also dependent on pay, as described below.

Incentivize Jobs with Good Pay - In order to receive the benefits based incentive payment, the employee must also receive pay greater than Substantial Gainful Activity (SGA). SGA is computed annually by the Social Security Administration. For 2011 it is \$1000 per month, net of impairment-related work expenses.

Investment in Training and Training Infrastructure – In order to ensure that people with developmental disabilities have expanded choices and opportunities to participate in rewarding jobs and careers that reflect their goals and aspirations, it is imperative that supported employment staff be trained to use best practices in employment related supports and services. In collaboration with local community colleges, and in consultation with national leaders in curriculum development, this project will develop a model training and training infrastructure; and build on the work currently being done at the Peralta Community College District through its Direct Support Professionals Training Program by developing a community college course on Advanced Supported Employment practice. The Project evaluation will assess the effects of this training.

Benefits and Work Counseling Services – One of the most complex but real barriers to employment is the fear on the part of people with disabilities and their families that earnings will make them lose public benefits or sever the eligibility to them. Understanding state and federal work incentive programs before job placement is essential to improving employment outcomes. Supported Employment services will include benefits and work counseling and training services that exceed current standard practices. The project will deploy one full time, expert benefits counselor/trainer to build capacity at the four agencies and to customize real time benefits counseling services before, during and after job placement for all participants. Over the life of the project this lead benefits counselor will train and build staff capacities at the field sites so that each agency can more autonomously provide benefits and work counseling services after the project ends. Project evaluation will assess the effects of these enhanced services.

Participating Partners

- World Institute on Disability, WID
- Consumer Directed Services Network, CDSN
- The CA Department of Health Care Services, DHCS
- The CA Department of Rehabilitation, DOR
- The CA Department of Developmental Services, DDS
- The Association of Regional Center Agencies, ARCA
- University of Minnesota, Institute on Community Integration
- Career Ladders Project, California Community Colleges
- Service Employees International Union, SEIU
- East Bay Innovations, EBI, Supported Employment Agency -Alameda
- The Arc of San Francisco, Supported Employment Agency - San Francisco
- Hope Enterprises, Supported Employment Agency - Santa Clara
- Work Link, Supported Employment Agency - San Francisco

ⁱ For example, of the 912,123 California Supplemental Security Income (SSI) recipients in 2008 who were blind or disabled, only 5.1% had reported earnings to Social Security, 46,789 people. U.S. Social Security Administration data from *SSI Annual Statistical Report, 2008*, Table 41. *The national average monthly wage for SSI recipients who report earnings to SSA is \$605.00 per month.* Table 46. Blind and disabled recipients who work, by state or other area, December 2008 [Click here: SSI Annual Statistical Report, 2008 - Recipients Who Work "](#)

ⁱⁱ "Since establishment of the federal minimum wage in 1938, a special minimum wage generally known as the subminimum wage has existed for individuals with disabilities. This provision allows employers, holding a 14(c) certificate from the US Department of Labor (DOL), to pay individuals with disabilities less than the federal or state

minimum wage that is generally mandated for all other workers. Pay is related to the individual's production level, with the intent of paying individuals in proportion to or commensurate with their productivity compared to workers without disabilities. *Currently there are approximately 5,600 employers who hold 14(c) certificates, employing approximately 425,000 individuals with disabilities at sub-minimum wage.*" APSE'S CALL TO PHASE OUT SUB-MINIMUM WAGE ..., October 2009 Position Statement, Association for Persons in Supported Employment, Washington, DC, www.apse.org

ⁱⁱⁱ "The Section 14(c) provisions of the Fair Labor Standards Act of 1938 (FLSA) establishes a program that allows employers to pay less than minimum wage to individuals with physical or mental disabilities whose productivity capacity is below the level considered appropriate for a particular work task." Morris, Ritchie and Clay, SECTION 14C OF THE FAIR LABOR STANDARDS ACT: FRAMING POLICY ISSUES, 2002, Law, Health Policy & Disability Center, University of Iowa College of Law

^{iv} AB 287 (Beall 2009) created frameworks for the development of a statewide Employment First Policy intended to increase the number of Californians with developmental disabilities working in their communities; also see AB 925 (Aroner 2002) establishing statewide policy and requiring a comprehensive strategy to employ more California residents with disabilities.

^v *Supported versus Sheltered Employment: Cumulative Costs, Hours Worked and Wages Earned*, Robert Evert Cimeria, Ph.D., Kent State University, In Press Journal of Vocational Rehabilitation, May 2011

^{vi} Ample research from Virginia Commonwealth University (VCU) and elsewhere demonstrates that the chronically stagnant numbers of California residents earning subminimum wages is no longer sound public policy on fiscal, ethical and civil rights grounds. This project primes the pump for change to reduce over-reliance on 14(c) Sub-minimum Wage Certificates which net dead end jobs that don't pay. "Research indicates that over time, supported employment is cost efficient - for every \$1 of costs taxpayers and workers invest into supported employment, more than \$1 is returned in the form of monetary benefits. A study of all 231,000 individual supported employment cases closed by public Vocational Rehabilitation between 2002 and 2007 found that *the average supported employee generated a net monthly benefit to taxpayers of \$251 per individual*, and a benefit-cost ration of 1.46. Further, supported employees were cost-efficient regardless of their primary disability or presence of secondary conditions ... Sub-minimum wage is not only a bad deal for individuals with disabilities – it's a bad deal for taxpayers." Full citations available in: APSE'S CALL TO PHASE OUT SUB-MINIMUM WAGE ..., October 2009 Position Statement, Association for Persons in Supported Employment, Washington, DC, www.apse.org

^{vii} The Social Security term "Substantial Gainful Activity" (SGA) refers to earnings in 2011 that exceed \$1,000 in monthly gross wages for Social Security disability beneficiaries who are not blind. The SGA amount for those who are on Social Security disability benefits based on blindness is \$1,640. When a new job placement funded by CA DOR works above these monthly wages for nine months or more, and the client also receives disability benefits from Social Security, CA DOR can receive cost reimbursement from Social Security for all its expenses incurred with this successful employment outcome. A job placement with earnings below these amounts would not generate federal income to the state of California in this way.

^{viii} SSI/SSP: Supplemental Security Income; a combined monthly cash benefit for those under 65 with a disability and little or no income and resources. SSI is a combination of the SSI Federal Benefit Rate (FBR) paid by the federal government, and SSP, the State Supplement Program, monthly income added by the state of California to the total SSI monthly cash benefit when the SSI recipient with a disability has little or no other source of monthly income. SSI/SSP cash benefits gradually go down as monthly earned income goes up for SSI recipients.

AGENDA ITEM DETAIL SHEET

ISSUE: Appointment of Executive Director at Area Board 2

BACKGROUND: Welfare and Institutions Code, section 4553 (c) (1) states, in part:

“Each area board shall have an executive director, nominated by the affirmative votes of a majority of the members of the area board, appointed by the executive director of the state council, and approved by the state council...”

ANALYSIS/DISCUSSION: The executive director of Area Board 2 retired as of January 1, 2012, thus the Board conducted a recruitment process to identify a new executive director. As reflect in the attached minutes from Area Board 2, on November 29, 2011 the board nominated Sarah M. May to be appointed as the new director.

Subsequent to the Board’s notification of their action, I interviewed Ms. May, concur with the Board’s nomination and recommend Council approval of my appointment of Sarah as the new executive director of Area Board 2.

COUNCIL STRATEGIC PLAN OBJECTIVE: Improve the SCDD organization and operations to effectively support the SCDD Vision and Mission and work collaboratively with other pertinent state agencies.

PRIOR COUNCIL ACTIVITY: None

RECOMMENDATION: Approve the Council Executive Director’s appointment of Sarah M. May as the executive director of Area Board 2 contingent upon receipt of a hiring freeze exemption from the Governor’s office.

ATTACHMENT(S): Letter of recommendation, minutes of Area Board 2 meeting and Ms. May’s application materials (redacted to remove private information).

PREPARED: Carol J. Risley, December 13, 2011



Area Board 2

State Council on
Developmental
Disabilities



BUTTE

December 7, 2011

GLENN

Carol J. Risley, Executive Director
State Council On Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, California 95811

LASSEN

Dear Carol,

MODOC

I am pleased to inform you, on behalf of Area Board 2, that we have completed our search for a new Executive Director recommendation and that person is Sarah May.

PLUMAS

After a long and detailed process, Sarah provided answers that demonstrated her complete knowledge of the DDS system and expectations of a potential Executive Director.

SISKIYOU

Her existing experience contributes to her ability to serve the community, our Area Board 2 as well as the State Council and you in a very professional way.

SHASTA

We look forward to your appointment of Sarah May as our next Executive Director and request and update on the process to follow.

TEHAMA

Thank you for your attention in this matter.

TRINITY



Larry R. Stevens
Search Committee Chairperson
Larryrstevens@hotmail.com
(530) 528-8925

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES – AREA BOARD 2
ELECTION OF NOMINATION FOR THE EXECUTIVE DIRECTOR POSITION OF THE AB2
NOVEMBER 29, 2011
Oxford Suites, Chico

MEMBERS PRESENT

Debbie Anderson, Verdine Mertens, Rosie Ryan, Colleen Ryberg, Steven Sharpe, Leroy Shipp, Larry Stevens, Mike Yalow

MEMBERS ABSENT

Marie Blair, Stephen Concklin, Jean Phillips

1. CALL TO ORDER – November 29, 2011 – 1:00p.m. – Steven Sharpe, *Chair*

A. Introduction All introduced themselves.

B. Announcements Debbie Anderson announced her daughter is currently living in Chico at a care home and is now participating in the ARC Butte County Day Program.

C. Public Input None.

***2. CLOSED SESSION – AB2 EXECUTIVE DIRECTOR INTERVIEWS**

3. RECONVENE OPEN SESSION – Steven Sharpe, *Chair*

A. The ballots for the Area Board 2's Executive Director position were read by Larry Stevens and recorded by Colleen Ryberg, Secretary. The vote: 6 to 2 in favor of Sarah M. May's nomination to the position of the Executive Director of the Area Board 2.

In favor: D. Anderson, V. Mertens, C. Ryberg, S. Sharpe, L. Stevens, and M. Yalow

Vote for James L. Ormand: R. Ryan, and L. Shipp

B. Larry Stevens, Chair of the Nominating Committee, called Roberta Newton, Acting Deputy Director of the State Council on Developmental Disabilities to inform her of the outcome of the election that the AB2 Board is nominating Sarah M. May for the position of Executive Director of the AB2.

4. ADJOURN – 3:30 p.m.

PROFESSIONAL OBJECTIVE

I am seeking an executive career position where my leadership skills are assets, and my managerial experiences can support Area Board 2 (AB2) members and staff in protecting and advocating the rights of all persons with developmental disabilities in their local communities.

CAREER HISTORY

Community Program Specialist II ~ State Council on Developmental Disabilities-AB2 5/98-Present

- Responsible for providing advocacy assistance, consultation, training and support to individuals with developmental disabilities, family members, and community agencies to connect people to services and supports (7/1/09-present).
- Network and collaborate with service systems and community to improve service quality, resolve problems reasonably.
- Active participation in local and statewide committees to enhance and educate community, consumers and service organizations to improve quality of service system.
- Active involvement in all agency management including required federal, state and local reporting, budget oversight, support to volunteer Board of Directors and community projects related to training and education.
- Responsible for implementing and managing the Life Quality Assessment (LQA) project in 9 northern California counties (5/98-7/1/09).
- Recruited, trained, and supervised team of 15 community members to conduct individual LQA Assessments.
- Manage confidential consumer information, identify and report suspected violations of consumers' legal, civil, or service rights to appropriate agency(s).
- Maintain liaison relationship with Far Northern Regional Center, service providers, and other professionals to assure consumer access and assessment completion.
- Developed and maintained support to a "Project Advisory Committee."
- Develop/presented public information materials describing the project and educating the public.
- Developed, managed, and maintained information systems, including; budgeting expenditures, statistical reports, project evaluations, project database and emerging issues.
- Conducted LQAs for consumers using Far Northern Regional Center services.

Program Coordinator ~ Work Training Center, Inc.-Jobs R Us

8/94-5/9

- Responsible for overall management of the Jobs R Us Program, supported employment services throughout Butte County, including supervision of 30-person staff, recruitment and hiring employees, development and management of the program's fiscal budget over \$300,000.
- Maintained Commission of Accreditation for Rehabilitation Facilities (CARF), including; coordination of supported employment services for people with developmental, physical, and/or psychiatric disabilities.
- Developed and maintained Vocational Contract with Butte County Behavioral Health.
- Developed and implemented staff training and education, including staff and employer education and consultation on Americans with Disabilities Act (ADA).
- Implemented and analyzed the program's Outcome Measurement Systems.

Rehabilitation Coordinator ~ Work Training Center, Inc. -Jobs R Us

10/93-8/

- Responsible for coordination of the supported employment program services for 80+ adults with developmental, physical, and/or psychiatric disabilities, in conjunction with referring agencies, care providers, and direct service staff, including coordination of consumer progress review conferences.
- Responsible for evaluation of consumers' preferences, strengths, needs, and abilities, to assist them in making vocational choices and promotion of their successful employment.
- Implemented consumer satisfaction survey, planned and implemented consumer support groups.
- Assisted Program Coordinator with Department of Rehabilitation negotiations, monthly billings, and calculations for consumer services.

Job Coach ~ Work Training Center, Inc. -Jobs R Us

4/93-10/93 - 7/91-10/

- Job coaching for adults with disabilities for individual job placements in the community.
- Provided one-on-one training in selected work fields, provided hands-on knowledge of vocational skills through on-going assessments and supportive counseling.
- Responsible for conducting consumer assessments, completing monthly reports, and assisting with development of individual program objectives.
- Participated in consumers' progress review conferences, taught social, currency, communication, and community skills.
- Provided education and advocacy for co-workers and employers.

Activities of Daily Living Instructor ~ Misericordia, Chicago, IL

1/93-4/

- Responsible for teaching personal hygiene, cooking, currency skills, community awareness, and nutrition for adults with disabilities in private residential facility.
- Responsibilities included: daily lessons plans, implementation of residents' objectives, case management, on-going training and seminars, conducting progress review conferences, attending staff meetings, and participating in organizational functions.

Developmental Trainer ~ Victor C. Newman, Chicago, IL

11/92-1/

- Interactive approach to teaching currency, community awareness, social and communication skills and opportunities to adults with disabilities in adult activity program.
- Responsible for evaluating and assessing consumers' objectives through hands on teaching, progress review conferences, required reports, and implementing program objectives.

COMMUNITY AND VOLUNTEER EXPERIENCE

- Shasta County Coordinating Council Secretary** Redding, CA **6/08-Present**
Secretary for advisory committee designated by Shasta County Board of Supervisors to recommend and assist in initiating programs, services, legislative issues, and advocacy for developmental disabilities system.
- Shasta College D.S.P.S. Advisory Committee Member** Redding, CA **11/02-Present**
Member for Shasta College Disabled Students Program and Services (DSPS), which addresses disabled students' services, programs, and opportunities at college campus.
- Paradise STRIVE Center Secretary** Paradise, CA **9/01-Present**
Assist in procuring funding for organization, responsible for all documentation and grant required reporting, help organize and operate fund-raising activities.
- Butte County Coordinating Council Secretary & Vice-Chair** Chico, CA **9/94-6/0**
Responsible for minutes and agendas, maintained active leadership role in community educational programs and political issues in the disability field.

EDUCATION

Bachelor of Arts-Liberal Studies

California State University-Chico, CA

**30
May 199**

EXAMINATION/EMPLOYMENT APPLICATION

STD. 678 (REV. 6/2010) Page 1

Applications will be processed ONLY for classifications where an examination is in progress and the published final filing date has not passed or for vacant positions where a department requests an application.

PRINT OR TYPE — PLEASE SEE INSTRUCTIONS ON BACK PAGE

APPLICANT IDENTIFICATION NUMBER (EASY ID)				EASY ID	
FIRST 3 LETTERS OF LAST NAME AT BIRTH	MONTH OF BIRTH	DAY OF BIRTH	LAST 4 DIGITS OF SOCIAL SECURITY NUMBER		
MAY	08	19	9528		
APPLICANT'S NAME (Last)		(First)	(M.I.)		SOCIAL SECURITY NUMBER
May		Sarah	M.		
MAILING ADDRESS (Number)		(Street)	E-MAIL ADDRESS		WORK TELEPHONE NUMBER
			sarah.may@scdd.ca.gov		530-895-4029
(City)	(County)	(State)	(Zip Code)		HOME/VRS/TTY TELEPHONE NUMBER

EXAMINATION(S) OR JOB TITLE(S) FOR WHICH YOU ARE APPLYING

State Council on Developmental Disabilities - Area Board 2 - EXECUTIVE DIRECTOR I

PERSONNEL
USE ONLY**ANSWER THE FOLLOWING QUESTIONS:**


- Enter the county in which you would like to take the examination if different from the county of your residence: Sacramento
- Do you need reasonable accommodation to take an interview or written test? ☐ YES ☒ NO
- Do your religious beliefs prevent you from taking an examination on Saturday? ☐ YES ☒ NO
- Are you now employed by the State of California? (If "YES", fill in the information below.) ☒ YES ☐ NO
 Department: State Council on Developmental Disabilities Subdivision: Area Board 2
- Have you ever been fired, dismissed, terminated, or had an employment contract terminated from any position for performance or for disciplinary reasons? (Applicants who have been rejected during a probationary period, or whose dismissals or terminations have been overturned, withdrawn [unilaterally or as part of a settlement agreement] or revoked need not answer "Yes".) Refer to the Instructions for further information. If "Yes" to Question #5, give details in the Explanations section. ☐ YES ☒ NO
- In addition to English, list any other languages you:
 - possess verbal fluency in _____
 - possess written fluency in _____
- I certify I can type at a speed of _____ words per minute. (For typing applicants only.)

(ANSWER QUESTIONS 8 AND 9 ONLY IF THE EXAMINATION INDICATES THEY ARE REQUIRED.)

- Do you meet the minimum and/or maximum age requirements? ☐ YES ☐ NO
- Do you possess a valid California Driver License? (If "YES", fill in the information below.) ☐ YES ☐ NO
 License# _____ Class: _____ Restrictions: _____

EXPLANATIONS**CERTIFICATION – IMPORTANT – PLEASE READ BEFORE SIGNING – If not signed, this application may be rejected.**

I certify under penalty of perjury that the information I have entered on this application is true and complete to the best of my knowledge. I further understand that any false, incomplete, or incorrect statements may result in my disqualification from the examination process or dismissal from employment with the State of California. I authorize the employers and educational institutions identified on this application to release any information they may have concerning my employment or education to the State of California.

APPLICANT'S SIGNATURE		DATE SIGNED							
		10/19/2011							
APPLICANTS—DO NOT USE THE SPACE BELOW—FOR PERSONNEL USE ONLY									
Classes	01	02	03	04	05	06	Flags	FOR PERSONNEL USE ONLY	
WC for Series/Levels							WC	STATUS	
RC/Flag for Series/Levels								<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED WC	
								EXPERIENCE	LICENSE REQUIREMENT
								EDUCATION	OTHER
								STAFF	DATE PROCESSED
								31	

EXAMINATION/EMPLOYMENT APPLICATION

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APPLICANT'S NAME (Last) May	(First) Sarah	(M.I.) M.	EASY ID
---------------------------------------	-------------------------	---------------------	---------

EDUCATION

DID YOU GRADUATE FROM HIGH SCHOOL? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IF NOT, DO YOU POSSESS A GED OR EQUIVALENT? <input type="checkbox"/> YES <input type="checkbox"/> NO		IF NOT, ENTER THE HIGHEST GRADE YOU COMPLETED	
UNIVERSITY OR COLLEGE—NAME AND LOCATION, BUSINESS, CORRESPONDENCE, TRADE OR SERVICE SCHOOL	COURSE OF STUDY	UNITS COMPLETED		DIPLOMA, DEGREE OR CERTIFICATE OBTAINED	DATE COMPLETED
		SEMESTER	QUARTER		
California State University - Chico, CA	Liberal Studies			Bachelor of Arts	05/1991

LICENSES – LIST APPLICABLE LICENSES AND CERTIFICATES INDICATED IN THE EXAMINATION BULLETIN.*(If you are an attorney, please indicate the date you were admitted to the Bar under the Issue Date column, if stated on the examination bulletin.)*

LICENSE/CERTIFICATION NUMBER	ISSUE DATE	EXPIRATION DATE	IN THE SPACE BELOW, INDICATE SPECIFIC COURSE REQUIREMENTS NEEDED TO SATISFY REQUIREMENTS FOR THIS EXAMINATION

EMPLOYMENT HISTORY— Begin with your most recent job. List each job separately.

FROM (MM/DD/YY) 05/18/1998	TO (MM/DD/YY) 10/20/2011	TITLE/JOB CLASSIFICATION (Include Range or Level, if applicable) Community Program Specialist II	SUPERVISOR NAME Robin Keehn
HOURS PER WEEK 40	TOTAL WORKED (Years/Months) 13 years 4mos	COMPANY/STATE AGENCY NAME State Council on Developmental Disabilities/Area Board 2	SUPERVISOR PHONE NUMBER 530-895-4027
SALARY EARNED \$ 5100 PER month		ADDRESS 1367 E. Lassen Avenue Suite B3 Chico CA 95973	
DUTIES PERFORMED			

Responsible for providing advocacy, assistance, consultation, training and support to individuals with developmental disabilities, family members, and community agencies to connect people to services and supports; network and collaborate with service system to improve service quality; active participation in local and statewide committees to enhance and educate community, consumers and service organizations; actively involved in overall management of agency including: federal, state and local reporting, budget oversight, support to volunteer Board of Directors and community projects related to training and education; Responsible for overall management of Life Quality Assessment (LQA) Project in 9 northern California counties (5/98-7/1/09) including: recruitment, training and supervising community volunteers to conduct assessments; management of confidential consumer information; identify and report suspected violations of consumers' legal, civil, or service rights to appropriate agency(ies); maintain relationships with Far Northern Regional Center (FNRC), service providers, and other professionals to assure consumer access and assessment completion; developed community advisory committee; conducted LQAs.

REASON FOR LEAVING

Currently employed as Community Program Specialist II position with Area Board 2

FROM (MM/DD/YY) 08/01/1994	TO (MM/DD/YY) 05/04/1998	TITLE/JOB CLASSIFICATION (Include Range or Level, if applicable) Program Coordinator	SUPERVISOR NAME Bonnie O'Leary
HOURS PER WEEK 40	TOTAL WORKED (Years/Months) 3yrs 9mos	COMPANY/STATE AGENCY NAME Work Training Center, Inc. - Jobs R Us	SUPERVISOR PHONE NUMBER (530) 345-8673
SALARY EARNED \$ 3500 PER month		ADDRESS 2255 Fair Street, Chico, CA 95928	
DUTIES PERFORMED			

Responsible for the overall management of the Supported Employment Program, Jobs R Us, including; supervision of 30 - person staff, interviewing and hiring employees, development and management of the program's fiscal budget of over \$300,000. Maintained Commission of Accreditation for Rehabilitation Facilities (C.A.R.F.), including; coordination of supported employment services for people with developmental, physical and/or psychiatric disabilities. Maintained vocational contract with Butte Behavioral Health, developed and implemented staff training and education, including staff and employer education and consultation on Americans with Disabilities Act (ADA). Implemented and analyzed the program's Outcome Measurement System. Responsible for analysis and implementation of consumer assessments.

REASON FOR LEAVING

Accepted Community Program Specialist Position with Area Board 2

EXAMINATION/EMPLOYMENT APPLICATION

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APPLICANT'S NAME (Last)	(First)	(M.I.)	EASY ID
May	Sarah	M.	

EMPLOYMENT HISTORY (Continued)

FROM (MM/DD/YY)	TO (MM/DD/YY)	TITLE/JOB CLASSIFICATION (Include Range or Level, if applicable)	SUPERVISOR NAME
10/01/1993	08/01/1994	Rehabilitation Coordinator	Sandy Parsons
HOURS PER WEEK	TOTAL WORKED (Years/Months)	COMPANY/STATE AGENCY NAME	SUPERVISOR PHONE NUMBER
40	1yr 3 mos.	Work Training Center, Inc. - Jobs R Us	(530) 343-7994
SALARY EARNED		ADDRESS	
\$ 3000 PER month		2255 Fair Street, Chico, CA 95928	
DUTIES PERFORMED			

Responsible for the coordination of the supported employment program services for 80+ adults with developmental, physical and/or psychiatric disabilities, in conjunction with referring agencies, care providers and direct service staff, including coordination and facilitation of consumer progress review conferences. Prepared and monitored individual written program plans. Responsible for evaluation of consumers' preferences, strengths, needs and abilities to assist them in making vocational choices and promotion of their successful employment. Implemented consumer satisfaction surveys, planned and implemented consumer support groups. Assisted Program Coordinator with Department of Rehabilitation and Department of Habilitation negotiations, monthly billing and calculations for consumer support services.

REASON FOR LEAVING

Accepted Program Coordinator Position with Work Training Center's Jobs R Us Program

FROM (MM/DD/YY)	TO (MM/DD/YY)	TITLE/JOB CLASSIFICATION (Include Range or Level, if applicable)	SUPERVISOR NAME
07/01/1991	10/01/1992	Job Coach	Sandy Parsons
HOURS PER WEEK	TOTAL WORKED (Years/Months)	COMPANY/STATE AGENCY NAME	SUPERVISOR PHONE NUMBER
40	3 mos	Work Training Center, Inc. - Jobs R Us	(530) 343-7994
SALARY EARNED		ADDRESS	
\$ 2200 PER month		2255 Fair Street, Chico, CA 95928	
DUTIES PERFORMED			

Job coaching for adults with disabilities for individual job placements in the community. Provided one-on-one training in selected work fields, provided hands-on knowledge of vocational skills through on-going assessments and supportive counseling. Responsible for conducting consumer assessments, completing monthly reports and assisting with development of individual program objectives. Participated in consumers' progress review conferences, teaching social, currency, communication, and community skills. Provided education and advocacy for co-workers and employers.

REASON FOR LEAVING

Relocated to Chicago, Illinois

FROM (MM/DD/YY)	TO (MM/DD/YY)	TITLE/JOB CLASSIFICATION (Include Range or Level, if applicable)	SUPERVISOR NAME
01/01/1993	04/01/1993	Instructor - Activities of Daily Living	Manisha Patel
HOURS PER WEEK	TOTAL WORKED (Years/Months)	COMPANY/STATE AGENCY NAME	SUPERVISOR PHONE NUMBER
40	3 mos	Misericordia North	
SALARY EARNED		ADDRESS	
\$ 10.00 PER hour		Chicago, Illinois	
DUTIES PERFORMED			

Responsible for teaching personal hygiene, cooking, currency skills, community awareness and nutrition for adults with developmental disabilities in private residential facility. Responsibilities included; daily lesson plans, implementation of residents' individual objectives, case management, on-going training and seminars, conducting progress review conferences, attending staff meetings and participating in organizational functions.

REASON FOR LEAVING

Relocated back to Chico, CA and was rehired as a Job Coach for Work Training Center's Jobs R Us Program

EXAMINATION/EMPLOYMENT APPLICATION

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APPLICANT'S NAME (Last)	(First)	(M.I.)	EASY ID
May	Sarah	M.	

EMPLOYMENT HISTORY (Continued)

FROM (MM/DD/YY)	TO (MM/DD/YY)	TITLE/JOB CLASSIFICATION (Include Range or Level, if applicable)	SUPERVISOR NAME
11/01/1992	01/01/1993	Developmental Trainer	
HOURS PER WEEK	TOTAL WORKED (Years/Months)	COMPANY/STATE AGENCY NAME	SUPERVISOR PHONE NUMBER
40	2 mos	Victor C. Newman	
SALARY EARNED		ADDRESS	
\$ 8.50 PER hour		Chicago, Illinois	
DUTIES PERFORMED			

Interactive approach to teaching currency skills, community awareness, social and communication skills to adults with developmental disabilities in a day-workshop program. Responsible for evaluating and assessing consumers' individual objectives through hands-on teaching, participating in progress review conferences, completing required reports and implementing program objectives.

REASON FOR LEAVING

Accepted Instructor Position with Misericordia North - Chicago, Illinois

FROM (MM/DD/YY)	TO (MM/DD/YY)	TITLE/JOB CLASSIFICATION (Include Range or Level, if applicable)	SUPERVISOR NAME
HOURS PER WEEK	TOTAL WORKED (Years/Months)	COMPANY/STATE AGENCY NAME	SUPERVISOR PHONE NUMBER
SALARY EARNED		ADDRESS	
\$ PER			
DUTIES PERFORMED			

REASON FOR LEAVING

FROM (MM/DD/YY)	TO (MM/DD/YY)	TITLE/JOB CLASSIFICATION (Include Range or Level, if applicable)	SUPERVISOR NAME
HOURS PER WEEK	TOTAL WORKED (Years/Months)	COMPANY/STATE AGENCY NAME	SUPERVISOR PHONE NUMBER
SALARY EARNED		ADDRESS	
\$ PER			
DUTIES PERFORMED			

REASON FOR LEAVING

EXAMINATION/EMPLOYMENT APPLICATION

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EQUAL EMPLOYMENT OPPORTUNITY
(For Examination Use Only)

APPLICANT: To assist the State of California in its commitment to Equal Employment Opportunity, applicants are asked to voluntarily provide the following information. This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions. Government Code Section 19705 authorizes the State Personnel Board to retain this information for research and statistical purposes.

APPLICANT IDENTIFICATION NUMBER (EASY ID)				EASY ID	
FIRST 3 LETTERS OF LAST NAME AT BIRTH		MONTH OF BIRTH	DAY OF BIRTH	LAST 4 DIGITS OF SOCIAL SECURITY NUMBER	
M A Y		0 8	1 9	9 5 2 8	
AGE				GENDER	
<input type="checkbox"/> (1) UNDER 21 <input type="checkbox"/> (3) 21 - 39 <input checked="" type="checkbox"/> (5) 40 - 69 <input type="checkbox"/> (7) 70 AND OVER				<input type="checkbox"/> MALE <input checked="" type="checkbox"/> FEMALE	
Ethnic Category (Please check the box that best describes your race/ethnicity.):					
<input type="checkbox"/> (7) AMERICAN INDIAN OR ALASKAN NATIVE —Persons having origins in any of the tribal peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition. ENTER TRIBAL IDENTIFICATION OR AFFILIATION _____					
<input type="checkbox"/> (2) ASIAN —Persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent. This includes China, Japan, and Korea.					
<input type="checkbox"/> (1) BLACK —Persons having origins in any of the black racial groups of Africa.					
<input type="checkbox"/> (8) FILIPINO —Persons having origins in any of the original peoples of the Philippine Islands.					
<input type="checkbox"/> (4) HISPANIC —Persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.					
<input type="checkbox"/> (6) PACIFIC ISLANDERS —Persons having origins in the Pacific Islands, such as Samoa.					
<input checked="" type="checkbox"/> (5) WHITE —Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.					
Check if:					
<input type="checkbox"/> (3) OTHER (Specify) _____					
<input type="checkbox"/> (Y) DISABLED —A person with a disability is an individual who: (1) has a physical or mental impairment or medical condition that limits one or more life activities, such as walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself or working; (2) has a record or history of such impairment or medical condition; or (3) is regarded as having such an impairment or medical condition.					
<input type="checkbox"/> MILITARY —A military veteran; a widow or widower of a veteran; or a spouse of a 100% disabled veteran.					
How did you learn of this Examination?					
<input type="checkbox"/> TELEPHONE JOB LINE		<input type="checkbox"/> WORD OF MOUTH		<input type="checkbox"/> INTERNET	
<input type="checkbox"/> ADVERTISEMENT IN _____		<input checked="" type="checkbox"/> EXAMINATION BULLETIN LOCATED AT SCDD Website			

THANK YOU FOR COMPLETING THIS QUESTIONNAIRE

October 19, 2011

Szandra Keszthelyi
State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95811

Dear Ms. Keszthelyi,

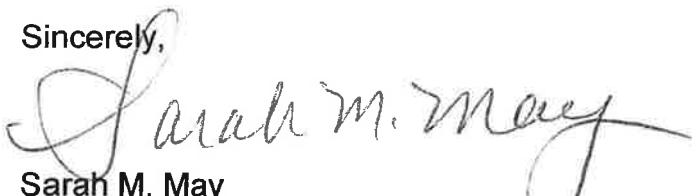
Thank you for considering my application for the State Council on Developmental Disabilities (SCDD) Area Board 2 Executive Director I position in Chico, California. In reviewing the Duty Statement, summary of responsibilities and overall essential functions of the position, I am confident that my professional skills and experience qualify me to successfully carry out this position.

After graduating from Chico State University in May of 1991, I began my journey into the developmental disabilities field through my employment at Work Training Center, Inc. I was quickly promoted to positions with management, program development, marketing and system analysis requirements. Employers have recognized my ability to manage many projects and balance responsibilities efficiently and effectively. I also feel my communication and diplomatic style fosters successful relationships and positive outcomes.

On May 18th of 1998, I was honored to accept the position to manage the Life Quality Assessment Project (LQA) for Area Board 2. I believe my ability to manage and oversee the project was good training for my transition into the Basic State Grant (BSG) Community Program Specialist II, which began on July 1, 2009 as the LQA Project came to closure. I enthusiastically embraced my new role providing advocacy assistance, consultation, training and support to individuals with developmental disabilities, family members and community organizations to connect people to available services and supports. Over the past two years, I have developed community projects and remain actively involved in community collaborations. I believe in SCDD- Area Boards mission and purpose in the State of California. It would be an exciting challenge to lead Area Board 2 and this catchment area in the continuation of the mandated responsibilities of our organization.

Thank you for an opportunity to be considered for the Area Board 2 Executive Director I position. Please refer to my enclosed resume to review more carefully my experiences and qualifications. If you have further questions, I can be contacted at (530) 895-4027 and Sarah.May@SCDD.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Sarah M. May". The signature is written in dark ink and is positioned above the printed name and title.

Sarah M. May
SCDD-Area Board 2/Community Program Specialist II
Attachments



Shasta Twenty-first Century Career Connections

2990 Innsbruck Drive ♦ Redding, CA 96003 ♦ (530) 604-3150 ♦ FAX (530) 222-8582

Sue Sawyer
Executive Director

Aurora Fryer
Assistant Director

September 28, 2011

Board of Directors

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Retired Educator

Mark Lathrop, Secretary
Sierra Pacific Industries

Gary Lewis, Treasurer
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College Options

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Hathaway & Ksenzulak, LLP

Mike O'Leary
Shasta Union High School District

Kate Mahar
Shasta College

Scott Swendiman
Swendiman & Associates

Staff

Sue Sawyer
Executive Director

Aurora Fryer
Assistant Director

Carol Risley, Executive Director
California State Council on Developmental Disabilities
1507 21st Street Suite 210
Sacramento CA 95811

Dear Ms. Risley,
It is with great pleasure that I submit this letter of recommendation on behalf of Sarah May.

I have worked with Sarah for the past ten years in multiple capacities, as a member of the Shasta County Coordinating Council, as a director of Transition Services for Youth who are leaving secondary education as a member of the Shasta County Transition Partnership, and, most recently, as a member of the State Leadership Team for Community of Practice on Transition.

Sarah has always been an incredible representative of the Area Board 2. She is actively engaged in the community activities throughout the region. She endeavors to share information and resources. She is a strong advocate for individuals with developmental disabilities.

There is no stronger and more dedicated spokesperson for the Area Board 2. Sarah energizes and engages people to do more. She lends staff support and expertise and is readily available to provide guidance to various endeavors throughout the region. She understands the needs of consumers, families and the professionals that serve them and serves as a powerful advocate for individuals with disabilities.

It is with excitement and enthusiasm that I strongly recommend Sarah for the position of Executive Director of Area Board 2.

Sincerely,

Sue Sawyer
Executive Director, Shasta 21st Century Career Connections
State President, California Transition Alliance
Member, State of California Leadership Team, Transition Community of Practice



*Work Training Center
and
Affiliated Programs*

2255 Fair Street
Chico, CA 95928
530.343.7994
530.343.4619 Fax
www.wtcinc.org

*Bear Mountain Production
Services*

*Community Employment
Services*

Creative Learning Center

Deer Creek Sewing

Do-It Leisure

Fair Street Recycling

Feather River Industries

*Feather River
Opportunity Center*

Joe McGie Center

Made In Paradise

Prestige Landscape Services

Sierra Center

*WTC Transportation
Services*

*Accredited
by the Rehabilitation
Accreditation Commission*

September 28, 2011

Letter of Recommendation – Sarah May

To Whom It May Concern,

I understand that Sarah May has applied for the position of Executive Director of the SCDD-Area Board 2. I have had the pleasure of working with Sarah since the early 1990's when she worked in our Community Employment Services (formerly Jobs R Us) program at the Work Training Center (WTC). Most recently I have worked very closely with Sarah as she supported a family to transition their son out of the local special education system into one of the Adult Day Programs for which I am responsible here at WTC.

Sarah's strongest asset has always been her compassion and genuine commitment to serve and support individuals with developmental disabilities. She is a strong advocate for the rights of each individual. Sarah has a rich background in direct services as well as community organization. She has worked at Area Board 2 since 1998 and understands the many projects and services as well as the inner workings of our local Area Board. Sarah believes in collaboration, communication and active teamwork – as exemplified by her commitment to assist a family who was struggling within the school system to move into a more appropriate venue to serve his particular needs.

Sarah is a tireless worker, committed to high quality services – as only she would best understand, Sarah managed the Life Quality Assessment process for our region. She has a strong knowledge of the entire region and the services available – both generic services and services within our regional center system. Sarah never shies away from a challenge, and is certainly a capable and competent professional. I believe that Sarah's compassion, understanding of our region and commitment to the field speaks volumes as she pursues this challenging position with the Area Board.

Kind Regards,

Deb Royat
Director of Rehabilitation Services

To whom it may concern
c/o Sarah May

My name is Elizabeth Gentry. I am a Far Northern Regional client, as well are my two children. Sarah May is a valuable employee that works very hard at assisting clients with their needs. Sarah has sat in on IEP appointments for my children, and has had a great impact on their education, as well as self-esteem. Sarah listens to the needs of the families and authentically cares what happens to them. When you go into the office, Sarah has always welcomed my family and myself, is always polite, and informative. Sarah always asks how you are, and is ready to lend a listening ear. Sarah is ready to deal with a crisis, and will assist you in finding the answers you need. Sarah works hard for clients, and their ability to live life with quality and independence. Sarah is a great asset to your organization, and would flourish if given the ability. Our family would like to thank her for all of her dedication and support.

Sincerely,

Elizabeth Gentry and Family

Elizabeth Gentry
10-12-2011

COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: Employment First Committee

BACKGROUND: Chapter 231, Statutes of 2009 (Assembly Bill 287) was signed into law and requires the Council to form a standing Employment First Committee (EFC), submit an annual report to the governor and legislature, and identify a number of strategies to increase the number of individuals with developmental disabilities working in integrated competitive employment. The Council reviewed and approved the report submitted to the Governor and Legislature at the July 2011 Council meeting.

The EFC met on October 26, 2011 to hear updates from agencies regarding the progress made in increasing the number of individuals with developmental disabilities working in integrated competitive employment.

The EFC reviewed the goals and strategies in the Employment First report and developed a consensus as to what it believes the Council should focus its employment related activities on during 2011-12. The greatest consensus is around focusing on education and training, particularly to enhance the expectations of families, educators and service providers that individuals with developmental disabilities can and should work and the need to prepare students for work.

The EFC is scheduled to meet on January 18, 2012, therefore will have an update from that discussion to provide the Council.

ANALYSIS/DISCUSSION: The proposed employment first policy articulated in the Employment First report reads:

It is the policy of the State of California that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities.

In plain language:
"Work is for all"

It should be noted that "integrated competitive employment" includes all income generation activities such as traditional jobs and owning one's own business.

The Council agreed to sponsor Assembly Bill 254 in order to place the proposed employment first policy into statute to guide the state and its' departments. Such a policy would not force individuals into integrated competitive employment because the

policy and report support the tenets of the Lanterman Act and the individual program plan development process.

COUNCIL STRATEGIC PLAN GOAL: Goal #8- The State of California will adopt an Employment First policy which reflects inclusive and gainful employment as the preferred outcome for working age individuals with developmental disabilities.

PRIOR EFC/COUNCIL ACTIVITY: Please see Background above.

EFC RECOMMENDATION: None

ATTACHMENT(S): None

PREPARED: Carol J. Risley, December 22, 2011

COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: H.R. 3356- Americans with Disabilities Act of 1990

SUMMARY: H.R. 3356-- ADA Compliance for Customer Entry to Stores and Services (ACCES) Act of 2011 seeks to amend the Americans with Disabilities Act (ADA) of 1990 to prohibit an aggrieved person from starting a civil action for discrimination based on the failure to remove a structural barrier to entry into an existing public accommodation unless the owner or operator of such accommodation: (1) is provided a written notice specific enough to identify such barrier; and (2) has, within specified time periods (from 30 to 120 days) either failed to provide the plaintiff with a written description outlining improvements that will be made to remove such barrier or provided such description and failed to remove such barrier.

BACKGROUND: Existing federal law, the ADA provides that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation (42 U.S.C. Sec.12181). According section 302(b) (2)) persons with disabilities have the right to start a civil action if the responsible party fails to remove the structural barriers to entry into existing public accommodations.

Existing California law, the Unruh Civil Rights Act, declares that all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever. A violation of the ADA also constitutes a violation of Unruh. A violation of this section subjects a person to actual damages incurred by an injured party, treble actual damages but not less than \$4,000, and any attorney's fees as the court may determine to be proper. (Civ. Code Sec.51)

H.R. 3356 is substantially similar to California Senate Bill (SB) 783 that was introduced this year by Senator Dutton. SB 783 imposes similar pre-litigation procedural requirements before a person could pursue a lawsuit under the state civil rights and equal access to the public or housing accommodation laws, including the ADA. The Senate Judiciary Committee analysis traced the history of these types of lawsuits in the California Legislature and illustrated that the strategy of "notice and delay" bills have been used as a means to begin undermining ADA access laws since its 1990 enactment. SB 783 did not become law.

ANALYSIS/DISCUSSION: H.R. 3356 would impose pre-litigation procedural requirements upon the filing of any claim of violations of the ADA access laws. This bill would require a specified and highly detailed 30-day notice of violation followed by 60 42

day review and before the expiration of additional 120 days after of initial notice given to the property owner or other responsible party, if correction of the violation does not occur by the end of 120 days and the owner fails to provide a satisfactory explanation, the claimant would be permitted to file the claim.

The impact of HR 3356 and other federal and state legislative efforts to create pre-litigation hurdles for persons with disabilities trying to enforce their civil rights is by itself extra inequity since other protected classes or persons are not subject to these delaying procedures. Also, time, efforts and expenses associated with enforcing their rights may impact their daily lives not in a positive way and in some may become a source of stress and nervous tension.

In California, Chapter 549, Statutes of 2008 (SB 1608) took effect on January 1, 2009, and did not create any pre-litigation hurdle for a person with disability but instead- among other things- decided that disability access standards adopted in state law would be used unless standards under federal law are higher. SB 1608 created the California Commission on Disability Access (CCDA) and enumerated the duties of the certified access specialists (CAS) with respect to the inspection, corrections that may need to be made to the site, written inspection report, and the statement of compliance, including the issuance-upon completion of the inspection and a determination that the site meets applicable construction-related accessibility standards-of a specified, watermarked, and sequentially numbered disability access certificate that may be displayed at the site. Generally speaking, the CCDA as an independent state entity was given the responsibility for monitoring disability access compliance in California.

H.R. 3365 disregards the CCDA and would create conflicting standards and procedures

COUNCIL STRATEGIC PLAN OBJECTIVE: Support public policies that positively impact the lives of persons with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: None

LPPC RECOMMENDATION: Pending

ATTACHMENT: H.R. 3356

PREPARED: Karim Alipourfard December 22, 2011

112TH CONGRESS
1ST SESSION

H. R. 3356

To amend the Americans with Disabilities Act of 1990 to impose notice and a compliance opportunity to be provided before commencement of a private civil action.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2011

Mr. DANIEL E. LUNGREN of California (for himself, Mr. HUNTER, Mr. CALVERT, and Ms. JENKINS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Americans with Disabilities Act of 1990 to impose notice and a compliance opportunity to be provided before commencement of a private civil action.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “ACCESS (ADA Com-
5 pliance for Customer Entry to Stores and Services) Act
6 of 2011”.

7 **SEC. 2. AMENDMENTS.**

8 Section 308(a)(1) of the Americans with Disabilities
9 Act of 1990 (42 U.S.C. 12188(a)(1)) is amended—

1 (1) by striking “PROCEDURES.—” and all that
2 follows through “The”, and inserting the following:

3 “PROCEDURES.—

4 “(A) IN GENERAL.—Subject to subpara-
5 graph (B), the”, and

6 (2) by adding at the end the following:

7 “(B) STRUCTURAL BARRIERS TO ENTRY
8 INTO EXISTING PUBLIC ACCOMMODATIONS.—A
9 civil action for discrimination under section
10 302(b)(2) based on the failure to remove a
11 structural barrier to entry into an existing pub-
12 lic accommodation may not be commenced by a
13 person aggrieved by such discrimination un-
14 less—

15 “(i) such person has provided to the
16 owner or operator of such accommodation
17 a written notice specific enough to allow
18 such owner or operator to identify such
19 barrier; and

20 “(ii) beginning on the date such no-
21 tice was received and—

22 “(I) before the expiration of 60
23 days after such date, such owner or
24 operator failed to provide to such per-
25 son a written description outlining im-

1 provements that will be made to re-
2 move such barrier; or

3 “(II)(aa) before the expiration of
4 60 days after such date, such owner
5 or operator provided such description
6 to such person; and

7 “(bb) before the expiration of
8 120 days after such description is pro-
9 vided, such owner or operator failed to
10 remove such barrier.”.


11 **SEC. 3. EFFECTIVE DATE.**

12 This Act and the amendments made by this Act shall
13 take effect on the 1st day of the 1st month beginning more
14 than 30 days after the date of the enactment of this Act.

○

Risley, Carol@SCDD

From: Christina Mills [cmills@cfilc.org]
Sent: Tuesday, December 06, 2011 8:56 AM
To: Risley, Carol@SCDD
Subject: CFILC Action Alert: Oppose Anti-ADA HR 3356 (Lungren)

	DISABILITY ACTION ALERT
	December, 2011
Visit CFILC online	HELP STOP H.R. 3356 (LUNGREN) THE ANTI- ADA BILL
cfilc.org	<p>The Americans with Disabilities Act (ADA) is a law that protects the civil rights of people with disabilities. One of the most important things that it does is to require the owners of businesses that are open to the public to fix or remove physical barriers that keep people with disabilities from entering and using them.</p>
Systems Change Network	<p>Together we need to fight against a bill by California Republican Congressman Dan Lungren that attacks these civil rights by weakening our ability to enforce the ADA. It chips away at the progress we've made to educate Americans about the positive contributions we can make if given opportunities for equal access to schools, businesses, and jobs. Take Action</p>
Access to Readiness Coalition	Now!
AT Network	<p>The Lungren bill discriminates against our community by requiring businesses being sued to be given written notice about every violation and then delays the case from moving forward for 4 months. It would even apply in cases where the owner has consistently refused to meet the ADA. The civil</p>
Californians for Olmstead	
Disability Action Coalition	
Disability Health Coalition	
Diversity Leadership Institute	
Transition to Home	
Yo! Disabled & Proud	
Youth Leadership	
DONATE	

NOW

rights of no other Americans are treated this way.

The notice and delay would actually **discourage** business owners from following the law. This bill would reward those who refuse to follow the law by giving them more time to remain inaccessible. In addition, it increases the chance that a lawsuit will not be filed. Why would anyone believe that a business would fix their access problems during the 4 month delay that they haven't already fixed in the last 21 years? In reality, it's the first step toward **repealing the ADA**.

Take Action Now!

[Remove yourself from this mailing.](#)

[Remove yourself from all mailings from California Foundation for Independent Living Centers.](#)

COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: HR 3086--Fair Wages for Workers with Disabilities Act of 2011

SUMMARY: This bill intends to phase out special wage certificates under the Fair Labor Standards Act of 1938 under which individuals with disabilities may be employed at subminimum wage rates.

BACKGROUND: Announcing the introduction of H.R. 3086 On Oct. 4, 2011 – Representative Stearns explained in a press release that “Although the disabled have made significant progress in achieving the American dream, they still face unfairness in the workplace under a provision that allows employers to pay workers with disabilities less than the federal minimum wage,” and that “protections for disabled workers were excluded in the Fair Labor Standards Act in the mistaken belief that they were not as productive as other workers. Workers with disabilities contribute to our economy and to our society, and they deserve equal pay for equal work.” This legislation would phase out the provision in the Fair Labor Standards Act that allows sub-minimum wage for disabled workers. Dr. Marc Maurer, President of the National Federation of the Blind, expressed strong support for the legislation, “We applaud Representatives Stearns and Bishop and we hope that a significant majority of their colleagues possess the courage and creativity to end over seventy years of exploitation of people with disabilities

ANALYSIS/DISCUSSION: The Fair Wages for Workers with Disabilities Act is a long-overdue effort to correct an injustice written into a law meant to protect workers from abuse and exploitation. Workers with disabilities were excluded from the protections of the Fair Labor Standards Act because of the false belief that individuals with disabilities cannot be as productive as individuals without disabilities.

COUNCIL STRATEGIC PLAN OBJECTIVE: Support public policies that positively impact the lives of persons with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: None

LPPC RECOMMENDATION: Pending

ATTACHMENT: H.R. 3086

PREPARED: Karim Alipourfard December 30, 2011

112TH CONGRESS
1ST SESSION

H. R. 3086

To phase out special wage certificates under the Fair Labor Standards Act of 1938 under which individuals with disabilities may be employed at subminimum wage rates.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2011

Mr. STEARNS (for himself and Mr. BISHOP of New York) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To phase out special wage certificates under the Fair Labor Standards Act of 1938 under which individuals with disabilities may be employed at subminimum wage rates.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Wages for Work-
5 ers with Disabilities Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Current Federal law allows the Secretary of
9 Labor to grant special wage certificates to entities

1 that provide employment to workers with disabilities,
2 allowing such entities to pay their disabled workers
3 at rates that are lower than the Federal minimum
4 wage.

5 (2) The practice of paying workers with disabili-
6 ties less than the Federal minimum wage dates
7 back to the 1930s, when there were virtually no em-
8 ployment opportunities for disabled workers in the
9 mainstream workforce.

10 (3) Today, advancements in vocational rehabili-
11 tation, technology, and training provide disabled
12 workers with greater opportunities than in the past,
13 and the number of such workers in the national
14 workforce has dramatically increased.

15 (4) Employees with disabilities, when provided
16 the proper rehabilitation services, training, and
17 tools, can be as productive as nondisabled employees.
18 Even those individuals that are considered most se-
19 verely disabled have been able to successfully obtain
20 employment earning minimum wage or higher.

21 (5) While some employers possessing special
22 wage certificates claim to provide rehabilitation and
23 training to disabled workers to prepare them for
24 competitive employment, the fact that such employ-
25 ers can pay their workers less than the Federal min-

1 imum wage gives them an incentive to exploit the
2 cheap labor provided by their disabled workers rath-
3 er than to prepare those workers for integrated em-
4 ployment in the mainstream economy.

5 (6) Many employers with a history of paying
6 subminimum wages benefit from philanthropic dona-
7 tions and preferred status when bidding on Federal
8 contracts. Yet they claim that paying minimum wage
9 to their employees with disabilities would result in
10 lack of profitability and forced reduction of their
11 workforces.

12 (7) Other employers, recognizing that the pay-
13 ment of subminimum wages is in fact exploitation of
14 disabled workers, are now paying the Federal min-
15 imum wage, or higher, to their employees with dis-
16 abilities without reducing their workforces, while still
17 maintaining their profitability. For example, Na-
18 tional Industries for the Blind (NIB) agencies ex-
19 ploited their blind employees for years through the
20 payment of subminimum wages, claiming they could
21 not maintain profitability otherwise. Now, “All NIB
22 associated agencies are committed to the NIB Board
23 policy to pay employees, whose only disability is
24 blindness, at or above the Federal minimum wage or
25 their state minimum wage, whichever is highest.”

1 (8) The Wage and Hour Division of the De-
2 partment of Labor is charged with the responsibility
3 for oversight of these special wage certificates. The
4 results from thorough investigations conducted by
5 the Government Accountability Office—“Stronger
6 Federal Efforts Needed for Providing Employment
7 Opportunities and Enforcing Labor Standards in
8 Sheltered Workshops, Report to the Congress,
9 Comptroller General of the United States” (HRD-
10 81-99) and “Report to Congressional Requesters,
11 Special Wage Program: Centers Offer Employment
12 and Support Services to Workers With Disabilities,
13 But Labor Should Improve Oversight” (GAO-01-
14 886)—explain that due to lack of capacity, training,
15 and resources, the Wage and Hour Division is in-
16 capable of enforcing compliance with the submin-
17 imum wage provision. Furthermore, the significant
18 appropriation that would be required to improve
19 oversight of the regulation would be better spent im-
20 proving employment outcomes for people with dis-
21 abilities.

22 (9) According to the rules established under
23 section 14(c) of the Fair Labor Standards Act of
24 1938, employers are to determine the special wage
25 to be paid to a disabled employee through a com-

1 plicated method that unfairly establishes a produc-
 2 tivity benchmark that would be difficult for anyone
 3 to maintain. The inability of many employers to cor-
 4 rectly establish the wage pursuant to the rule has
 5 regularly resulted in disabled employees receiving
 6 even less than the special minimum wage (below the
 7 federally established minimum wage) that they
 8 should have received under the regulation.

9 **SEC. 3. TRANSITION TO FAIR WAGES.**

10 (1) DISCONTINUANCE.—Effective on the date of
 11 enactment of this Act, the Secretary of Labor shall
 12 discontinue issuing special wage certificates under
 13 section 14(c) of the Fair Labor Standards Act of
 14 1938 (29 U.S.C. 214(c)) to any new entities not
 15 currently holding a certificate.

16 (2) TRANSITION.—All special wage certificates
 17 held on the date of enactment of this Act—

18 (A) by private for profit entities shall be
 19 revoked 1 year after such date of enactment;

20 (B) by public or governmental entities
 21 shall be revoked 2 years after such date of en-
 22 actment; and

23 (C) by non-profit entities shall be revoked
 24 3 years after such date of enactment.

1 (3) REPEAL.—Effective 3 years from the date
2 of enactment of this Act, section 14(c) of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 214(c)) is
4 repealed and any remaining special wage certificates
5 issued under such section shall be revoked.

○

The Case Against the Section 14(c) Subminimum Wage Program
Prepared for the National Federation of the Blind
By Samuel R. Bagenstos*

Introduction

When Congress adopted the Americans with Disabilities Act in 1990, it found that “individuals with disabilities continually encounter various forms of discrimination,” including “overprotective rules and policies,” “segregation,” and “relegation to lesser services, programs, activities, benefits, jobs, and other opportunities.”¹ This discrimination, Congress found, results “from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society.”² More than twenty years later, the statute books still contain a federal law that itself discriminates against people with disabilities, reflects an overprotective policy toward them, and encourages segregation and relegation to lesser jobs. That law is Section 14(c) of the Fair Labor Standards Act, which authorizes employers to pay less than the minimum wage to certain employees with disabilities.³ In the post-ADA world, Section 14(c) is an anomaly in the law, and it is one that should be eliminated.

This paper begins by describing the Section 14(c) program. It then explains how Section 14(c) discriminates against people with disabilities.

* Professor of Law, University of Michigan Law School. Former Principal Deputy Assistant Attorney General for Civil Rights, United States Department of Justice. Institutional affiliation for identification purposes only.

¹ 42 U.S.C. § 12101(a)(5).

² 42 U.S.C. § 12101(a)(7).

³ 29 U.S.C. § 214(c).

Finally, the paper shows why the three justifications that have been offered for the program—that it encourages open-market employers to hire people with disabilities, that it gives people with disabilities a chance to develop their skills in preparation for open-market work, and that it provides people with disabilities who cannot work on the open market a chance to earn at least something—are not consistent with actual experience under the program. The paper thus argues that Congress should repeal Section 14(c).

The Section 14(c) Program

Federal laws requiring that employers pay a minimum wage have always made an exception for some workers with disabilities. The first economy-wide federal minimum wages were set during the Great Depression by the National Recovery Administration (NRA). Pursuant to an executive order issued by President Roosevelt, the NRA exempted sheltered workshops from the general minimum wages.⁴ In 1937, after the Supreme Court invalidated the NRA's authorizing legislation, Congress began work on the Fair Labor Standards Act (FLSA). The FLSA adopted nationwide regulations of workers' wages and hours. From the beginning, the FLSA bills contained an exemption for people with disabilities. This exemption occasioned little discussion during the debates over the bills, though at least one Member of

⁴ See Congressional Research Service, *Treatment of Workers with Disabilities Under Section 14(c) of the Fair Labor Standards Act* 6 (2007 ed.); 1 United States Department of Labor, *Sheltered Workshop Study: A Nationwide Report on Sheltered Workshops and Their Employment of Handicapped Individuals* 10 (1977).

Congress did note approvingly in passing that what he called “subnormal workers” would not be entitled to receive a minimum wage, and Roosevelt Administration officials endorsed that exclusion.⁵ Perhaps the only affirmative argument in the legislative history for exempting workers with disabilities from the minimum wage came from Yale professor Hudson Hastings. In testimony before a joint hearing before the Senate and House Labor Committees, Hastings expressed concern that the minimum wage would be set “so high as to prevent millions of workers who are subnormal in their physical or mental capacities from securing any employment whatsoever.”⁶

After a number of amendments not relevant to the matter at issue here, Congress adopted and President Roosevelt signed the FLSA in 1938. The bill as adopted into law provided that the federal Wage and Hour Administrator, “to the extent necessary to prevent curtailment of opportunities for employment,” shall provide for “the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates issued by the Administrator, at

⁵ See *Fair Labor Standards Act of 1937: Joint Hearings Before the Senate Comm. on Education and Labor and the House Comm. on Labor*, 75th Cong., 1st Sess., at 37-38 (1937) (colloquy between Rep. Fitzgerald and Assistant Attorney General Jackson); *id.* at 190 (testimony of Labor Secretary Perkins).

⁶ *Fair Labor Standards Act of 1937: Joint Hearings Before the Senate Comm. on Education and Labor and the House Comm. on Labor*, 75th Cong., 1st Sess., at 1080 (1937) (Statement of Prof. Hudson Hastings).

such wages lower than the minimum wage applicable under [the law] and for such period as shall be fixed in such certificates.”⁷

The FLSA’s requirements for workers with disabilities have changed through the years, with Congress going back and forth on whether to impose a floor on the wages of those workers who were not entitled to be paid minimum wage.⁸ Congress ultimately resolved the matter in 1986 by eliminating any floor on the wages of people with disabilities who are not entitled to earn the minimum wage.⁹ Under Section 14(c) as currently worded, the wages of individuals with disabilities who are not entitled to earn the minimum wage must simply be “commensurate with those paid to nonhandicapped workers, employed in the vicinity in which the individuals under the certificates are employed, for essentially the same type, quality, and quantity of work,” and “related to the individual’s productivity.”¹⁰

Although any employer could in theory pay a below-minimum wage to an employee with a disability who meets the Section 14(c) qualifications, in practice the overwhelming majority of workers with disabilities who are paid below-minimum wages work in sheltered workshops (what their operators now call “center-based” employment programs). A Government Accountability Office survey found that “[w]ork centers employed about 95

⁷ Pub. L. No. 75-718, § 14, 52 Stat. 1060 (June 25, 1938).

⁸ See generally Congressional Research Service, *supra* note 4, at 6-28.

⁹ Pub. L. No. 99-486, 100 Stat. 1229 (Oct. 16, 1986).

¹⁰ 29 U.S.C. § 214(c)(1).

percent of all 14(c) workers.”¹¹ Indeed, President Roosevelt originally exempted workers with disabilities from the NRA’s minimum wage codes in 1934 in deference to concerns expressed by sheltered workshops, who urged that they could not afford to pay their workers market wages. But there were comparatively few sheltered workshops in the United States in 1934—about seventy workshops for blind people, less than sixty Goodwill Industries, and a handful of others.¹² Today, fuelled by the FLSA exemption and various federal laws that subsidize them directly—most notably the Javits-Wagner-O’Day Act, which was originally adopted in 1938 and requires the government to purchase certain goods from sheltered workshops—there are more than 2,500 employers (the overwhelming majority of which are sheltered workshops) certified to pay more than 350,000 employees less than minimum wage under Section 14(c).¹³

Section 14(c) Discriminates Against People with Disabilities

It is an obvious point, but it bears emphasis: Section 14(c) is, on its face, discriminatory. The law singles out what it calls “[h]andicapped workers”—workers “whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury”—and denies them the minimum

¹¹ Gen. Accounting Off., Special Minimum Wage Program: Centers Offer Employment and Support Services to Workers with Disabilities, But Labor Should Improve Oversight 9 (2001).

¹² See Nathan Nelson, Workshops for the Handicapped in the United States: An Historical and Developmental Perspective 26-42 (1971)

¹³ Frederic K. Schroeder, No More Subminimum Wages: The Time is Now!, speech delivered at the annual convention of the National Federation of the Blind, Orlando, FL (July 8, 2011); see Nelson, *supra* note 12, at 29-30 (describing the role of what was then called the Wagner-O’Day Act in promoting the growth of sheltered workshops for blind people).

wage guarantee to which all workers are presumptively entitled.¹⁴ The law does not authorize below-minimum wages for all less-productive workers—only those who have disabilities. And although the FLSA also authorizes below-minimum wages for learners, apprentices, messengers, and students in Section 14(a) and (b),¹⁵ Section 14(c) is different in kind from those provisions. Section 14(a) and (b) makes people eligible for below-minimum wages because they perform a particular job (messengers) or are at a particular stage in their careers (learners, apprentices, students). Section 14(c), by contrast, denies people the guarantee of a minimum wage for potentially any job, and at any point in their career, based on their own disability status—a status that can be lifelong.

In the post-ADA world, such discrimination demands justification. The following section discusses the three possible justifications for Section 14(c) and finds them wanting.

The Failure of the Justifications for Section 14(c)'s Discrimination

Encouraging Open-Market Employers to Hire People with Disabilities?

On its face, Section 14(c) suggests that its purpose is to ensure that open-market employers are not discouraged from hiring workers with disabilities by the requirement to pay them a minimum wage. Thus, the

¹⁴ 29 U.S.C. § 214(c).

¹⁵ 29 U.S.C. § 214(a), (b).

statute provides that the Secretary of Labor may authorize below-minimum wages for people with disabilities “whose earning or productive capacity is impaired” to “prevent curtailment of [their] opportunities for employment.”¹⁶ Recall that, during the hearings on the original Fair Labor Standards Act, Professor Hastings of Yale expressed the concern that the minimum wage would deter businesses from hiring workers who are “subnormal in their physical or mental capacities.”

The premise of this justification is that, for a significant number of people with disabilities, there are no reasonable accommodations that will make it worth the while of open-market employers to hire them. Whatever one thinks about the validity of that premise—and Congress concluded when it adopted the ADA that it is often stereotypes, and not facts, that lead employers to believe that people with disabilities cannot be sufficiently productive—the evidence is clear that a below-minimum wage is not an effective strategy for encouraging open-market employers to hire people with disabilities. Rather, Section 14(c) has simply served as a subsidy to sheltered workshops. Recall that only about five percent of individuals receiving below-minimum wages under Section 14(c) work for open-market employers. The vast, overwhelming majority work for sheltered workshops. Section 14(c) cannot be justified as a policy to increase open-market employment opportunities for people with disabilities.

¹⁶ 29 U.S.C. § 214(c)(1).

Preparing People with Disabilities for Open-Market Employment?

Perhaps, however, Section 14(c) can be justified as giving people with disabilities the opportunity to learn key job skills before going on the open job market. This justification certainly *seems* more persuasive than the suggestion that open-market employers will hire people with disabilities at below-minimum wages. It at least takes account of the fact that the overwhelming majority of employees certified under Section 14(c) work in sheltered programs. And it makes Section 14(c) seem more congruent with the other subminimum wage provisions of Section 14 of the FLSA. Section 14's provisions for learners, apprentices, and students offer a temporary opportunity for individuals to receive training at the start of their careers. Perhaps Section 14(c), as well offers merely a temporary jump-start to a career in the open labor market. As Professor Blanck and his colleagues observed, "[a]lthough serving a dual purpose, sheltered workshops historically were considered a means for individuals with disabilities to learn vocational skills necessary to obtain integrated employment."¹⁷

But this justification does not fit the facts, either. Most individuals in sheltered workshops will not move to competitive employment. To the contrary, as University of California law and political science Professor Jacobus tenBroek argued many years ago, sheltered workshops are often

¹⁷ Peter Blanck, Helen A. Scharz & Kevin M. Scharz, *Labor Force Participation and Income of Individuals with Disabilities in Sheltered and Competitive Employment: Cross-Sectional and Longitudinal Analyses of Seven States During the 1980s and 1990s*, 44 Wm. & Mary L. Rev. 1029, 1044 (2003).

“terminal places of employment in which so-called unemployable may find a drudge’s niche at the workbench.”¹⁸ Far more recently, Dartmouth Medical School Professor Gary Bond wrote that “[t]he ineffectiveness of sheltered workshops for helping individuals progress to competitive employment is well established.”¹⁹ In the words of Professors Stephen Murphy and Patricia Rogan, “[s]heltered employment has been shown to be a much better medium for preparing people to continue sheltered work than to begin competitive work.”²⁰ Troublingly, empirical evidence suggests that large numbers of the individuals who *stay* in sheltered workshops have at least as strong daily living skills as those who *leave* the workshops for open-market employment.²¹

Sheltered workshops, subsidized by Section 14(c), do a poor job of training people with disabilities for competitive employment. Perhaps surprisingly, many workshops are not set up to provide real, job-relevant skills. Once again, Professor tenBroek well explained the dynamic half a century ago: “Because of their customary role as sheltered (i.e., segregated, covered, and noncompetitive) employment retreats, the social and psychological environment of the workshops is often not conducive to the

¹⁸ Jacobus tenBroek, *The Character and Function of Sheltered Workshops*, available at <http://www.blind.net/resources/employment/the-character-and-function-of-sheltered-workshops.html> (originally published 1960).

¹⁹ Gary R. Bond, *Supported Employment: Evidence for an Evidence-Based Practice*, 27 *Psychiatric Rehab. J.* 345, 353 (2004).

²⁰ Stephen T. Murphy & Patricia M. Rogan, *Closing the Shop: Conversion from Sheltered to Integrated Work* 20 (1995).

²¹ See Blanck, Scharzt & Scharzt, *supra* note 17, at 1088-1089 (“For instance, in Pennsylvania, more than half (56%) of individuals who remained in sheltered work at Time 2 (Stayers) had Adaptive Behavior Scale scores greater than 90 on a scale of 100. In comparison, somewhat less than half (44%) of individuals who progressed to integrated employment at Time 2 (Improvers) had Adaptive Behavior Scale scores in the range above 90.”).

paramount objective of vocational rehabilitation: that of restoring the disabled person to a vocational status of normality and equality.”²² Sheltered workshops often rely on outdated, non-mechanized production processes—which are poor vehicles for developing the skills real employers need in the open-market economy. According to Professors Murphy and Rogan, “a host of studies” demonstrates “that sheltered employment hinders people from learning appropriate social and vocational behaviors because they have been isolated from competitive standards regarding work training, modern equipment, job requirements, behavioral expectations, and social relations.”²³

Fundamentally, Section 14(c)—and the sheltered workshop system it undergirds—rests on the proposition that people with disabilities should have to provide their ability and inclination to work in whatever make-work jobs the workshops create before moving into the world of competitive employment. “Make-work” is not an exaggeration. Professor Susan Stefan describes sheltered workshop workers “folding and unfolding newspapers.”²⁴ The National Disability Rights Network describes an individual whose job was to count rocks as he moved them from one box to another.²⁵ Even the jobs in sheltered workshops that do perform some economic function are

²² tenBroek, *supra* note 18.

²³ Murphy & Rogan, *supra* note 20, at 19. See also Alberto Migliore, *Sheltered Workshops*, in International Encyc. of Rehab. (J.H. Stone & M. Blouin, eds., 2010) (“Even when work is the main focus of sheltered workshops, the work environment tends to be different from the one in mainstream businesses.”), available at <http://cirrie.buffalo.edu/encyclopedia/en/article/136/>.

²⁴ Susan Stefan, *Beyond Residential Segregation: The Application of Olmstead to Segregated Employment Settings*, 26 Ga. St. U. L. Rev. 875, 877 (2010).

²⁵ National Disability Rights Network, *Segregated and Exploited: The Failure of the Disability Service System to Provide Quality Work* 22 (2011).

extremely menial and unlikely to develop real work skills. The GAO described the jobs that are generally available at these workshops:

Assembly jobs generally involve uncomplicated one- or two-step processes that are mainly performed by hand. For example, 14(c) workers at a work center in Illinois that we visited assembled small plastic automobile parts, while 14(c) workers at a New York work center snapped together plastic pieces to assemble a lint remover. The service-related jobs involved basic tasks, such as mopping floors and picking up trash. For example, 14(c) workers from a California work center maintained restrooms at public beaches under contracts with local city governments.²⁶

Worse, jobs like these are often assigned without any connection to the abilities and background of the individuals assigned them. Former federal rehabilitation commissioner Fredric Schroeder described a woman he met who had blindness and cerebral palsy. Even though she had a college degree, the sheltered workshop in which she worked assigned her a job assembling heavy rubber mats; paid by the piece, she earned *three dollars per week*.²⁷ It should be no surprise that such “jobs” do not prepare sheltered workshop employees to compete on the open labor market.

The Chance to Earn At Least Something?

One occasionally hears that even if Section 14(c) does not assist people with disabilities in acquiring open-market jobs, but instead simply authorizes

²⁶ Gen. Accounting Off., *supra* note 11, at 10.

²⁷ Schroeder, *supra* note 13. See also Stefan, *supra* note 24, at 875 (quoting an interview with a sheltered workshop worker: “Several years ago, I was a client of Georgia Vocational Rehabilitation . . . at [Atlanta Rehabilitation Center]. I was put in a sheltered workshop and asked to put a plastic cover on two bottles, eight hours a day, for three weeks to show my readiness to work. I balked and the counselor said, ‘Oh, so you don’t really want to work. I had two other Ph.D.s who didn’t want to work.’”).

payment of a below-minimum wage to people who will work in sheltered workshops for life, the statute is still justified. At least, the argument goes, these individuals are earning *something*, which the law requires to be commensurate with the wages paid to nondisabled workers and related to their productivity.²⁸ Moreover, the statute contains a complaint process under which a person who disagrees with the below-minimum wage set by his or her employer can appeal to the Secretary of Labor.²⁹ Shouldn't this be enough to ensure that people who receive below-minimum wages under Section 14(c) really are not sufficiently productive to earn a minimum wage?

No. As former National Federation of the Blind President Kenneth Jernigan testified in congressional hearings in 1980, the entire structure of Section 14(c) stacks the deck against ensuring that wages adequately reflect the abilities of a worker with a disability. That law, he said, “set[s] up a class of workers who are blind or handicapped and thus forc[es] the members of this class to justify every penny of their paychecks by means of productivity ratings while working under conditions and with equipment over which they have no control.”³⁰ The outdated and non-individualized setups of many sheltered workshops, discussed in the previous section, will depress the *observed* productivity of their workers, while saying very little about what a worker's skills would be in a more modern workplace (and one that sought to

²⁸ 29 U.S.C. § 214(c)(1).

²⁹ 29 U.S.C. § 214(c)(5).

³⁰ *Oversight Hearings on Section 14(C) of the Fair Labor Standards Act: Hearings before the Subcomm. on Labor Standards of the House Comm. on Educ. and Labor*, 96th Cong., 2d Sess. 47 (1980).

provide an individualized fit between worker and job). As a Congressional Research Service report demonstrated, it is difficult if not impossible to measure a worker's productivity objectively in such a context.³¹

This situation is an invitation to paying individuals with disabilities in sheltered workshops less than they deserve under the law, and significantly less than they produce for their managers. Where basically all of the relevant information is in the hands of the sheltered workshop manager, the statutory appeals process can provide little counterweight. And the process itself is fatally flawed—because it does not provide for attorney's fees or opt-out classes—and is therefore rarely invoked.³²

Conclusion

The problem of non-employment of people with disabilities is an important one. But Section 14(c)'s subminimum wage provision is not the way to solve that problem. Section 14(c) discriminates against people with disabilities. It has not served its original purpose of ensuring that open-market employers hire people with disabilities. Instead, it has simply provided a subsidy for sheltered workshops, which have done a poor job of preparing their workers for open-market employment, and which pay wages that cannot reliably be said to be related to their workers' productivity.

³¹ See Congressional Research Service, *supra* note 4, at 20.

³² See *id.* at 26-28.

Section 14(c) is an anomaly in the post-ADA world, and Congress should repeal it.

COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: H.R. 3610, Streamlining Workforce Development Programs Act 2011

SUMMARY: The Streamlining Workforce Development Programs Act requires the state and local leaders to set “common performance measures” for all employment and job training programs to help eliminate waste and ensure taxpayer dollars are spent appropriately. The focal point of the legislation is to introduce the concepts of transparency, accountability and flexibility and simplified reporting requirements to create a seamless workforce development system, especially in state government. The bill also requires an independent evaluation of U.S. Department of Labor programs in this area to take place every five years.

BACKGROUND: The nation's workforce development system, authorized under the Workforce Investment Act (WIA) of 1998, has been characterized as a confusing maze of wide-ranging programs. A 2011 Government Accountability Office (GAO) report identified 47 separate federal job training programs costing taxpayers \$18 billion annually. Most of these programs overlap and serve the same populations, and only five of the programs have been evaluated for effectiveness. As a result of this broken system, taxpayer dollars are wasted, employers are unable to hire a properly trained workforce, and workers often lack skills necessary for successful performance.

ANALYSIS/DISCUSSION: Introduced by Representative Virginia Foxx (R-NC), Chairwoman of the U.S. House Subcommittee on Higher Education and Workforce Training, the Streamlining Workforce Development Programs Act (H.R. 3610) consolidates 33 of the 47 programs identified by the GAO into four flexible Workforce Investment Funds and makes other changes overall:

- The Workforce Investment Fund – provides job training services to adults, unemployed workers, and youth seeking employment;
- The State Youth Workforce Investment Fund – serves the nation’s disadvantaged youth, with a focus on school completion;
- The Veterans Workforce Investment Fund – delivers employment and training services to America’s veterans; and
- The Targeted Populations Workforce Investment Fund – continues assistance to special populations including Native Americans and seasonal farm workers.
- Sets “common performance measures” for all employment and job training programs to help eliminate waste and ensure taxpayer dollars are spent appropriately
- Allows states to submit one statewide workforce development plan to the federal government for all job training and related programs, providing administrative flexibility and ending burdensome paperwork requirements.

The bill appears over ambitious and needs a well coordinated and extended cooperation and implementation plan to succeed. It is also noticeable that while there are references to special population, seasonal farm workers and Native Americans, etc. apparently an open reference to the needs of persons with disabilities, is missing.

COUNCIL STRATEGIC PLAN OBJECTIVE: Support public policies that positively impact the lives of persons with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: None

LPPC RECOMMENDATION: Pending

ATTACHMENT: H.R. 3610

PREPARED: Karim Alipourfard, December 30, 2011

112TH CONGRESS
1ST SESSION

H. R. 3610

To consolidate and streamline redundant and ineffective Federal workforce development programs to increase accountability, reduce administrative bureaucracies, and put Americans back to work.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2011

Ms. FOXX (for herself, Mr. ROE of Tennessee, Mr. WILSON of South Carolina, Mr. ROKITA, Mr. GOWDY, Mrs. ROBY, Mr. HECK, and Mr. KELLY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Armed Services, Veterans' Affairs, Agriculture, Natural Resources, the Judiciary, Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To consolidate and streamline redundant and ineffective Federal workforce development programs to increase accountability, reduce administrative bureaucracies, and put Americans back to work.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Streamlining Work-
5 force Development Programs Act of 2011”.

1 **SEC. 2. REFERENCES.**

2 Except as otherwise expressly provided, wherever in
 3 this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or repeal of, a section or other provi-
 5 sion, the amendment or repeal shall be considered to be
 6 made to a section or other provision of the Workforce In-
 7 vestment Act of 1998 (20 U.S.C. 9201 et seq.).

8 **SEC. 3. EFFECTIVE DATE.**

9 Except as otherwise provided, this Act and the
 10 amendments made by this Act shall be effective with re-
 11 spect to fiscal year 2013 and succeeding fiscal years.

12 **TITLE I—AMENDMENTS TO THE**
 13 **WORKFORCE INVESTMENT ACT**

14 **SEC. 101. STATE WORKFORCE INVESTMENT BOARDS.**

15 Section 111 is amended—

16 (1) in subsection (b)—

17 (A) in paragraph (1)—

18 (i) by striking subparagraph (B);

19 (ii) by redesignating subparagraph

20 (C) as subparagraph (B); and

21 (iii) in subparagraph (B) (as so redes-
 22 ignated)—

23 (I) by amending clause (i)(II) to
 24 read as follows:

25 “(II) represent businesses, in-
 26 cluding large and small businesses,

1 with immediate and long-term employ-
2 ment opportunities in in-demand in-
3 dustries and other occupations impor-
4 tant to the State economy; and”;

5 (II) by striking clause (iii) and
6 inserting the following:

7 “(iii) a State agency official respon-
8 sible for economic development; and”;

9 (III) by striking clauses (iv)
10 through (vi);

11 (IV) by amending clause (vii) to
12 read as follows:

13 “(vii) such other representatives and
14 State agency officials as the Governor may
15 designate.”; and

16 (V) by redesignating clause (vii)
17 as clause (iv); and

18 (B) by amending paragraph (3) to read as
19 follows:

20 “(3) MAJORITY.—A $\frac{2}{3}$ majority of the mem-
21 bers of the board shall be representatives described
22 in paragraph (1)(C)(i).”;

23 (2) by amending subsection (d) to read as fol-
24 lows:

1 “(d) FUNCTIONS.—The State board shall assist the
2 Governor of the State as follows:

3 “(1) STATE PLAN.—Consistent with section
4 112, develop a State plan.

5 “(2) STATEWIDE WORKFORCE DEVELOPMENT
6 SYSTEM.—Review and develop statewide policies and
7 programs in the State in a manner that supports a
8 comprehensive Statewide workforce development sys-
9 tem that will result in meeting the workforce needs
10 of the State and its local areas. Such review shall in-
11 clude determining whether the State should consoli-
12 date additional programs into the Workforce Invest-
13 ment Fund under section 132(b)(1).

14 “(3) WORKFORCE AND LABOR MARKET INFOR-
15 MATION SYSTEM.—Develop a statewide employment
16 statistics system described in section 15(e) of the
17 Wagner-Peyser Act, which may include using exist-
18 ing information conducted by the State economic de-
19 velopment agency or related entity in developing
20 such system.

21 “(4) EMPLOYER ENGAGEMENT.—Develop strat-
22 egies across local areas that meet the needs of em-
23 ployers and support economic growth in the State by
24 enhancing communication, coordination, and collabo-

1 ration among employers, economic development enti-
2 ties, and service providers.

3 “(5) DESIGNATION OF LOCAL AREAS.—Des-
4 ignate local areas as required under section 116.

5 “(6) ONE-STOP DELIVERY SYSTEM.—Identify
6 and disseminate information on best practices for ef-
7 fective operation of one-stop centers, including use
8 of innovative business outreach, partnerships, and
9 service delivery strategies.

10 “(7) PROGRAM OVERSIGHT.—Conduct the fol-
11 lowing program oversight:

12 “(A) Reviewing local plans.

13 “(B) Conducting oversight for State em-
14 ployment and training activities authorized
15 under section 134.

16 “(C) Preparing an annual report to the
17 Secretary described in section 136(d).

18 “(8) DEVELOPMENT OF PERFORMANCE MEAS-
19 URES.—Develop and ensure continuous improvement
20 of comprehensive State performance measures, in-
21 cluding State adjusted levels of performance, to as-
22 sess under section 136(b) the effectiveness of the
23 workforce investment activities in the State.”;

24 (3) by striking subsection (e);

1 (4) by redesignating subsection (f) as sub-
 2 section (e);

3 (5) by inserting after subsection (e) (as so re-
 4 designated), the following:

5 “(f) STAFF.—The State board may employ staff to
 6 assist in carrying out the functions described in subsection
 7 (d).”; and

8 (6) in subsection (g), by inserting “electronic
 9 means and” after “on a regular basis through”.

10 **SEC. 102. STATE PLAN.**

11 Section 112—

12 (1) in subsection (a)—

13 (A) by striking “127 or”; and

14 (B) by striking “5-year strategy” and in-
 15 serting “4-year strategy”; and

16 (2) in subsection (b)—

17 (A) by amending paragraph (4) to read as
 18 follows:

19 “(4) information describing—

20 “(A) the economic conditions in the State;

21 “(B) the immediate and long-term skilled
 22 workforce needs of in-demand industries and
 23 other occupations important to the State econ-
 24 omy;

1 “(C) the knowledge and skills of the work-
2 force in the State; and

3 “(D) workforce development activities (in-
4 cluding education and training) in the State;”;

5 (B) by amending paragraph (7) to read as
6 follows:

7 “(7) a description of the State criteria for de-
8 termining the eligibility of training providers in ac-
9 cordance with section 122, including how the State
10 will take into account the performance of providers
11 and whether the training programs relate to occupa-
12 tions that are in-demand;”;

13 (C) by amending paragraph (8) to read as
14 follows:

15 “(8)(A) a description of the procedures that will
16 be taken by the State to assure coordination of, and
17 avoid duplication among, the programs and activities
18 identified under section 501(b)(2); and

19 “(B) a description of common data collection
20 and reporting processes used for the programs and
21 activities described in subparagraph (A) carried out
22 by one-stop partners, including—

23 “(i) assurances that such processes use
24 quarterly wage records for performance meas-

ures described in section 136(b)(2)(A) that are applicable to such programs or activities; or

“(ii) if such wage records are not being used for the performance measures, an identification of the barriers to using such wage records and a description of how the State will address such barriers within one year of the approval of the plan;”;

(D) in paragraph (9), by striking “, including comment by representatives of businesses and representatives of labor organizations,”;

(E) in paragraph (11), by striking “under sections 127 and 132” and inserting “under section 132,”;

(F) by striking paragraph (12);

(G) by redesignating paragraphs (13) through (18) as paragraphs (12) through (17), respectively;

(H) in paragraph (16) (as so redesignated)—

(i) in subparagraph (A)—

(I) by striking “and” at the end of clause (iii);

(II) by amending clause (iv) to read as follows:

1 “(iv) how the State will serve the em-
2 ployment and training needs of dislocated
3 workers (including displaced homemakers),
4 low-income individuals (including recipients
5 of public assistance), individuals with lim-
6 ited English proficiency, homeless individ-
7 uals, individuals training for nontraditional
8 employment, youth, older workers, ex-of-
9 fenders, migrant and seasonal farm-
10 workers, refugee and entrants, veterans
11 (including disabled and homeless veterans),
12 and Native Americans; and”;

13 (III) by adding at the end the
14 following new clause:

15 “(v) a description of how the State
16 will—

17 “(I) consistent with section 188
18 and Executive Order 13217 (42
19 U.S.C. 12131 note), serve the employ-
20 ment and training needs of individuals
21 with disabilities; and

22 “(II) consistent with sections 504
23 and 508 of the Rehabilitation Act of
24 1973, include the provision of out-
25 reach, intake, assessments, and serv-

1 ice delivery, the development of per-
 2 formance measures, the training of
 3 staff, and other aspects of accessibility
 4 to programs and services under this
 5 subtitle;” and

6 (ii) in subparagraph (B), by striking
 7 “to the extent practicable” and inserting
 8 “in accordance with the requirements of
 9 the Jobs for Veterans Act (Public Law
 10 107–288) and the amendments made by
 11 such Act (except sections 4103A and 4104
 12 of title 38, United States Code)”;

13 (I) by striking paragraph (17) (as so re-
 14 designated) and inserting the following:

15 “(17) a description of the strategies and pro-
 16 grams providing outreach to businesses, identifying
 17 workforce needs of businesses in the State, and en-
 18 suring that such needs will be met (including the
 19 needs of small businesses), which may include—

20 “(A) implementing innovative programs
 21 and strategies designed to meet the needs of all
 22 businesses in the State, including small busi-
 23 nesses, which may include incumbent worker
 24 training programs or industry or sector part-
 25 nerships, and make the statewide workforce in-

1 vestment system more relevant to the needs of
2 State and local businesses, consistent with the
3 objectives of this title; and

4 “(B) providing incentives and technical as-
5 sistance to assist each local area in the State in
6 more fully engaging all employers, including
7 small employers, in local workforce investment
8 activities—

9 “(i) to make the workforce investment
10 system more relevant to the needs of area
11 businesses; and

12 “(ii) to better coordinate workforce in-
13 vestment, economic development, and post-
14 secondary education and training efforts to
15 contribute to the economic well-being of
16 the local area and region, as determined
17 appropriate by the local board;

18 “(18) a description of how the State will utilize
19 technology to facilitate access to services in remote
20 areas, which may be used throughout the State;

21 “(19) a description of the State strategy and
22 assistance to be provided for encouraging regional
23 cooperation within the State and across State bor-
24 ders, as appropriate; and

“(20) a description of the actions that will be taken by the State to foster communication and partnerships with non-profit organizations (including community, faith-based, and philanthropic organizations) that provide employment-related, training, and complementary services, to enhance the quality and comprehensiveness of services available to participants under this title.”;

(3) in subsection (c), by striking “period, that—” all that follows through paragraph (2) and inserting “period, that the plan is inconsistent with the provisions of this title.”; and

(4) in subsection (d), by striking “5-year” and inserting “4-year”.

SEC. 103. LOCAL WORKFORCE INVESTMENT AREAS.

Section 116 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking “Except as provided in subsection (b), and consistent with paragraphs (2), (3), and (4), in” and inserting “In”; and

(II) by striking “127 or”; and

1 (ii) by amending subparagraph (B) to
2 read as follows:

3 “(B) CONSIDERATIONS.—In making the
4 designation of local areas, the Governor shall
5 take into consideration the following:

6 “(i) The extent to which such local
7 areas are consistent with labor market
8 areas.

9 “(ii) The extent to which labor market
10 areas align with economic development re-
11 gions.

12 “(iii) Whether such local areas have
13 the appropriate education and training
14 providers to meet the needs of the local
15 workforce.

16 “(iv) The distance that individuals
17 will need to travel to receive services pro-
18 vided in such local areas.”;

19 (B) by amending paragraph (2) to read as
20 follows:

21 “(2) TECHNICAL ASSISTANCE.—The Secretary
22 shall, if requested by the Governor of a State, pro-
23 vide the State with technical assistance in making
24 the determinations required under paragraph (1).
25 The Secretary shall not issue regulations governing

1 determinations to be made under paragraph (1).”;

2 and

3 (C) by striking paragraph (3) and insert-
4 ing the following:

5 “(3) DESIGNATION ON RECOMMENDATION OF
6 STATE BOARD.—The Governor may approve a re-
7 quest from any unit of general local government (in-
8 cluding a combination of such units) for designation
9 as a local area under paragraph (1) if the State
10 board determines, taking into account the factors
11 described in clauses (i) through (iv) of paragraph
12 (1)(B), and recommends to the Governor, that such
13 area shall be so designated.”;

14 (D) by striking paragraph (4); and

15 (E) by redesignating paragraph (5) as
16 paragraph (4); and

17 (2) by amending subsection (b) to read as fol-
18 lows:

19 “(b) SINGLE STATES.—Consistent with subsection
20 (a)(1)(B), the Governor may designate a State as a single
21 State local area for the purposes of this title.”.

22 **SEC. 104. LOCAL WORKFORCE INVESTMENT BOARDS.**

23 Section 117 is amended—

24 (1) by striking subsection (c)(1)(C); and

25 (2) by striking subsection (i).

1 **SEC. 105. LOCAL PLAN.**

2 Section 118(b) is amended—

3 (1) by striking “and” at the end of paragraph
4 (9);

5 (2) redesignating paragraph (10) as paragraph
6 (11); and

7 (3) inserting after paragraph (9), the following:

8 “(10) a description of how the local area will
9 serve the employment and training needs of dis-
10 located workers (including displaced homemakers),
11 low-income individuals (including recipients of public
12 assistance), individuals with limited English pro-
13 ficiency, homeless individuals, individuals training
14 for nontraditional employment, youth, older workers,
15 ex-offenders, migrant and seasonal farmworkers, ref-
16 ugee and entrants, veterans (including disabled vet-
17 erans and homeless veterans), and Native Ameri-
18 cans; and”.

19 **SEC. 106. ESTABLISHMENT OF ONE-STOP DELIVERY SYS-**
20 **TEM.**

21 Section 121 is amended—

22 (1) in subsection (b)—

23 (A) in paragraph (1)(B)—

24 (i) by striking clause (vi); and

1 (ii) by redesignating clauses (vii)
 2 through (xii) as clauses (vi) through (xi),
 3 respectively; and

4 (B) in paragraph (2)(B)—

5 (i) by striking clause (ii); and

6 (ii) by redesignating clauses (iii)
 7 through (v) as clauses (ii) through (iv), re-
 8 spectively;

9 (2) in subsection (d)(2)—

10 (A) by amending subparagraph (A) to read
 11 as follows:

12 “(A) shall be designated or certified as a
 13 one-stop operator through a competitive proc-
 14 ess; and”; and

15 (B) in subparagraph (B), by striking
 16 clause (ii) and redesignating clauses (iii)
 17 through (vi) as clauses (ii) through (v), respec-
 18 tively; and

19 (3) by striking subsection (e) and redesignating
 20 subsection (f) as subsection (e).

21 **SEC. 107. IDENTIFICATION OF ELIGIBLE PROVIDERS OF**
 22 **TRAINING SERVICES.**

23 Section 122 is amended—

1 (1) in subsection (b)(2)(C), by striking “, in-
 2 cluding representatives of business and labor organi-
 3 zations”;

4 (2) in subsection (c)(3), by striking “, including
 5 representatives of business and labor organizations”;
 6 and

7 (3) in subsection (d)(3)(A), by striking “in sec-
 8 tions 128(a) and 133(a)(1), as appropriate” and in-
 9 serting “in section 133(a)(1)”.

10 **SEC. 108. IDENTIFICATION OF ELIGIBLE PROVIDERS OF**
 11 **YOUTH ACTIVITIES.**

12 Section 123 is repealed.

13 **SEC. 109. GENERAL AUTHORIZATION.**

14 Chapter 5 of title I is amended—

15 (1) by striking the heading related to chapter 5
 16 and inserting the following: “**EMPLOYMENT**
 17 **AND TRAINING ACTIVITIES**”; and

18 (2) in section 131—

19 (A) by striking “paragraphs (1)(B) and
 20 (2)(B) of”; and

21 (B) by striking “adults, and dislocated
 22 workers” and inserting “adults, dislocated
 23 workers, youth, veterans, and targeted popu-
 24 lations”.

1 **SEC. 110. STATE ALLOTMENTS.**

2 Section 132 is amended—

3 (1) by amending subsection (a) to read as fol-
4 lows:

5 “(a) IN GENERAL.—The Secretary shall—

6 “(1) reserve 2 percent of the total amount ap-
7 propriated under subsections (a) through (d) of sec-
8 tion 137 for a fiscal year, of which—

9 “(A) not less than 85 percent shall be used
10 for national emergency grants under section
11 173;

12 “(B) not more than 10 percent may be
13 used for demonstration projects under section
14 171; and

15 “(C) not more than 5 percent may be used
16 to provide technical assistance under section
17 170; and

18 “(2) from the remaining amount appropriated
19 under section 137(a) for a fiscal year, make allot-
20 ments in accordance with subsection (b)(1);

21 “(3) from the remaining amount appropriated
22 under section 137(b) for a fiscal year, make allot-
23 ments in accordance with subsection (b)(2);

24 “(4) from the remaining amount appropriated
25 under section 137(c) for a fiscal year, make allot-
26 ments in accordance with subsection (b)(3); and

“(5) from the remaining amount appropriated under section 137(d) for a fiscal year, make allotments in accordance with subsection (b)(4).”; and

(2) by amending subsection (b) to read as follows:

“(b) ALLOTMENT AMONG STATES FOR EMPLOYMENT AND TRAINING ACTIVITIES.—

“(1) WORKFORCE INVESTMENT FUND.—

“(A) RESERVATION FOR OUTLYING AREAS.—

“(i) IN GENERAL.—From the amount made available under subsection (a)(2) for a fiscal year, the Secretary shall reserve not more than $\frac{1}{4}$ of 1 percent to provide assistance to the outlying areas.

“(ii) RESTRICTION.—The Republic of Palau shall cease to be eligible to receive funding under this subparagraph upon entering into an agreement for extension of United States educational assistance under the Compact of Free Association (approved by the Compact of Free Association Amendments Act of 2003 (Public Law 108–188)) after the date of enactment of

1 the Streamlining Workforce Development
2 Programs Act of 2011.

3 “(B) STATES.—

4 “(i) IN GENERAL.—After determining
5 the amount to be reserved under subpara-
6 graph (A), the Secretary shall allot the re-
7 mainder of the amount referred to in sub-
8 section (a)(2) for a fiscal year to the
9 States pursuant to clause (ii) for employ-
10 ment and training activities and statewide
11 workforce investment activities.

12 “(ii) FORMULA.—Subject to clauses
13 (iii) and (iv), of the remainder—

14 “(I) $33\frac{1}{3}$ percent shall be allot-
15 ted on the basis of the relative num-
16 ber of unemployed individuals in areas
17 of substantial unemployment in each
18 State, compared to the total number
19 of unemployed individuals in areas of
20 substantial unemployment in all
21 States;

22 “(II) $33\frac{1}{3}$ percent shall be allot-
23 ted on the basis of the relative num-
24 ber of individuals in the civilian labor
25 force in each State as compared to the

1 total number of such individuals in all
2 States; and

3 “(III) $33\frac{1}{3}$ percent shall be allot-
4 ted on the basis of the relative num-
5 ber of individuals in a State who have
6 been unemployed for 15 weeks or
7 more, compared to the total number
8 of individuals in all States who have
9 been unemployed for 15 weeks or
10 more.

11 “(iii) MINIMUM AND MAXIMUM PER-
12 CENTAGES.—

13 “(I) MINIMUM PERCENTAGE.—
14 The Secretary shall ensure that no
15 State shall receive an allotment under
16 this subparagraph for a fiscal year
17 that is less than 90 percent of the al-
18 lotment percentage of the State for
19 the preceding fiscal year.

20 “(II) MAXIMUM PERCENTAGE.—
21 Subject to subclause (I), the Secretary
22 shall ensure that no State shall re-
23 ceive an allotment under this subpara-
24 graph for a fiscal year that is more
25 than 130 percent of the allotment per-

1 centage of the State for the preceding
2 fiscal year.

3 “(iv) SMALL STATE MINIMUM ALLOT-
4 MENT.—Subject to clause (iii), the Sec-
5 retary shall ensure that no State shall re-
6 ceive an allotment under this subparagraph
7 for a fiscal year that is less than $\frac{2}{10}$ of 1
8 percent of the remainder described in
9 clause (i) for the fiscal year.

10 “(v) DEFINITIONS.—For the purpose
11 of the formula specified in this subpara-
12 graph:

13 “(I) INDIVIDUAL.—The term ‘in-
14 dividual’ means an individual who is
15 not less than age 16 and not more
16 than age 72.

17 “(II) ALLOTMENT PERCENT-
18 AGE.—The term ‘allotment percent-
19 age’—

20 “(aa) used with respect to
21 fiscal year 2012, means the per-
22 centage of the amounts allotted
23 to States under the provisions
24 listed in paragraphs (1) through
25 (6) of section 201 of the Stream-

lining Workforce Development Programs Act of 2011 and chapter 5 of this title (as such provisions and chapter were in effect on the day before the date of enactment of such Act) that is received under such provisions and under such chapter by the State involved for fiscal year 2012; and

“(bb) used with respect to fiscal year 2013 or a subsequent year, means the percentage of the remainder described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year.

“(2) STATE YOUTH WORKFORCE INVESTMENT FUND.—

“(A) RESERVATION FOR OUTLYING AREAS.—

“(i) IN GENERAL.—From the amount made available under subsection (a)(3) for a fiscal year, the Secretary shall reserve not more than $\frac{1}{4}$ of 1 percent to provide assistance to the outlying areas.

1 “(ii) RESTRICTION.—The Republic of
2 Palau shall cease to be eligible to receive
3 funding under this subparagraph upon en-
4 tering into an agreement for extension of
5 United States educational assistance under
6 the Compact of Free Association (approved
7 by the Compact of Free Association
8 Amendments Act of 2003 (Public Law
9 108–188)) after the date of enactment of
10 the Streamlining Workforce Development
11 Programs Act of 2011.

12 “(B) STATES.—

13 “(i) IN GENERAL.—After determining
14 the amount to be reserved under subpara-
15 graph (A), the Secretary shall allot the re-
16 mainder of the amount referred to in sub-
17 section (a)(3) for a fiscal year to the
18 States pursuant to clause (ii) for State
19 youth activities.

20 “(ii) FORMULA.—Subject to clauses
21 (iii) and (iv), of the remainder—

22 “(I) 50 percent shall be allotted
23 on the basis of the relative number of
24 disadvantaged youth who are ages 16
25 through 24 in each State, compared

1 to the total number of disadvantaged
2 youth who are ages 16 through 24 in
3 all States; and

4 “(II) 50 percent shall be allotted
5 on the basis of the relative number of
6 secondary school dropouts who are
7 ages 16 and 17 compared to the total
8 number of secondary school dropouts
9 who are ages 16 and 17 in all States.

10 “(iii) MINIMUM AND MAXIMUM PER-
11 CENTAGES.—

12 “(I) MINIMUM PERCENTAGE.—
13 The Secretary shall ensure that no
14 State shall receive an allotment under
15 this subparagraph for a fiscal year
16 that is less than 90 percent of the al-
17 lotment percentage of the State for
18 the preceding fiscal year.

19 “(II) MAXIMUM PERCENTAGE.—
20 Subject to subclause (I), the Secretary
21 shall ensure that no State shall re-
22 ceive an allotment under this subpara-
23 graph for a fiscal year that is more
24 than 130 percent of the allotment per-

centage of the State for the preceding
fiscal year.

“(iv) SMALL STATE MINIMUM ALLOT-
MENT.—Subject to clause (iii), the Sec-
retary shall ensure that no State shall re-
ceive an allotment under this subparagraph
for a fiscal year that is less than $\frac{2}{10}$ of 1
percent of the remainder described in
clause (i) for the fiscal year.

“(v) DEFINITIONS.—For the purpose
of the formula specified in this subpara-
graph:

“(I) ALLOTMENT PERCENT-
AGE.—The term ‘allotment percent-
age’—

“(aa) used with respect to
fiscal year 2012, means the per-
centage of the amounts allotted
to States under the provisions
listed in paragraphs (7) through
(9) of section 201 of the Stream-
lining Workforce Development
Programs Act of 2011 (as such
provisions were in effect on the
day before the date of enactment

1 of such Act) that is received
 2 under such provisions by the
 3 State involved for fiscal year
 4 2012; and

5 “(bb) used with respect to
 6 fiscal year 2013 or a subsequent
 7 year, means the percentage of the
 8 remainder described in clause (i)
 9 that is received through an allot-
 10 ment made under this subpara-
 11 graph for the fiscal year.

12 “(II) DISADVANTAGED YOUTH.—
 13 The term ‘disadvantaged youth’
 14 means an individual who is age 16
 15 through 24 who receives an income, or
 16 is a member of a family that received
 17 a total family income, that, in relation
 18 to family size, does not exceed the
 19 higher of—

20 “(aa) the poverty line; or

21 “(bb) 70 percent of the
 22 lower living standard income
 23 level.

24 “(3) VETERANS WORKFORCE INVESTMENT
 25 FUND.—

1 “(A) RESERVATION FOR OUTLYING
2 AREAS.—

3 “(i) IN GENERAL.—From the amount
4 made available under subsection (a)(4) for
5 a fiscal year, the Secretary shall reserve
6 not more than $\frac{1}{4}$ of 1 percent to provide
7 assistance to the outlying areas.

8 “(ii) RESTRICTION.—The Republic of
9 Palau shall cease to be eligible to receive
10 funding under this paragraph upon enter-
11 ing into an agreement for extension of
12 United States educational assistance under
13 the Compact of Free Association (approved
14 by the Compact of Free Association
15 Amendments Act of 2003 (Public Law
16 108–188)) after the date of enactment of
17 the Streamlining Workforce Development
18 Programs Act of 2011.

19 “(B) STATES.—

20 “(i) IN GENERAL.—After determining
21 the amount to be reserved under subpara-
22 graph (A), the Secretary shall allot the re-
23 mainder of the amount referred to in sub-
24 section (a)(4) for a fiscal year to the

1 States pursuant to clause (ii) for veterans
2 employment and training activities.

3 “(ii) FORMULA.—Subject to clauses
4 (iii) and (iv), the remainder shall be allot-
5 ted on the basis of the relative number of
6 unemployed veterans in each State, com-
7 pared to the total number of unemployed
8 veterans in all States.

9 “(iii) MINIMUM AND MAXIMUM PER-
10 CENTAGES.—

11 “(I) MINIMUM PERCENTAGE.—

12 The Secretary shall ensure that no
13 State shall receive an allotment under
14 this subparagraph for a fiscal year
15 that is less than 90 percent of the al-
16 lotment percentage of the State for
17 the preceding fiscal year.

18 “(II) MAXIMUM PERCENTAGE.—

19 Subject to subclause (I), the Secretary
20 shall ensure that no State shall re-
21 ceive an allotment under this subpara-
22 graph for a fiscal year that is more
23 than 130 percent of the allotment per-
24 centage of the State for the preceding
25 fiscal year.

1 “(iv) SMALL STATE MINIMUM ALLOT-
2 MENT.—Subject to clause (iii), the Sec-
3 retary shall ensure that no State shall re-
4 ceive an allotment under this subparagraph
5 for a fiscal year that is less than $\frac{2}{10}$ of 1
6 percent of the remainder described in
7 clause (i) for the fiscal year.

8 “(v) DEFINITION.—For the purpose
9 of the formula specified in this subpara-
10 graph, the term ‘allotment percentage’—

11 “(I) used with respect to fiscal
12 year 2012, means the percentage of
13 the amounts allotted to States under
14 the provisions listed in paragraphs
15 (12) through (15) of section 201 of
16 the Streamlining Workforce Develop-
17 ment Programs Act of 2011 (as such
18 provisions were effect on the day be-
19 fore the date of enactment of such
20 Act) that is received under such provi-
21 sions by the State involved for fiscal
22 year 2012; and

23 “(II) used with respect to fiscal
24 year 2013 or a subsequent year,
25 means the percentage of the remain-

der described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year.

“(4) TARGETED POPULATIONS WORKFORCE INVESTMENT FUND.—

“(A) RESERVATION FOR OUTLYING AREAS.—

“(i) IN GENERAL.—From the amount made available under subsection (a)(5) for a fiscal year, the Secretary shall reserve—

“(I) not more than $\frac{1}{4}$ of 1 percent to provide assistance to the outlying areas; and

“(II) not more than 1.5 percent to provide assistance to Indian Tribes.

“(ii) RESTRICTION.—The Republic of Palau shall cease to be eligible to receive funding under this subparagraph upon entering into an agreement for extension of United States educational assistance under the Compact of Free Association (approved by the Compact of Free Association Amendments Act of 2003 (Public Law 108–188)) after the date of enactment of

1 the Streamlining Workforce Development
2 Programs Act of 2011.

3 “(B) STATES.—

4 “(i) IN GENERAL.—After determining
5 the amount to be reserved under subpara-
6 graph (A), the Secretary shall allot the re-
7 mainder of the amount referred to in sub-
8 section (a)(5) for a fiscal year to the
9 States pursuant to clause (ii) for refugee
10 and entrant, ex-offender, migrant and sea-
11 sonal farmworker, and Native American
12 employment and training activities.

13 “(ii) FORMULA.—Subject to clauses
14 (iii) and (iv), the remainder shall be allot-
15 ted on the basis of the relative number of
16 refugee and entrants, ex-offenders, migrant
17 and seasonal farmworkers, and Native
18 Americans who are unemployed in each
19 State, compared to the total number of ref-
20 ugee and entrants, ex-offenders, migrant
21 and seasonal farmworkers, and Native
22 Americans who are unemployed in all
23 States.

24 “(iii) MINIMUM AND MAXIMUM PER-
25 CENTAGES.—

1 “(I) MINIMUM PERCENTAGE.—

2 The Secretary shall ensure that no
3 State shall receive an allotment under
4 this subparagraph for a fiscal year
5 that is less than 90 percent of the al-
6 lotment percentage of the State for
7 the preceding fiscal year.

8 “(II) MAXIMUM PERCENTAGE.—

9 Subject to subclause (I), the Secretary
10 shall ensure that no State shall re-
11 ceive an allotment under this subpara-
12 graph for a fiscal year that is more
13 than 130 percent of the allotment per-
14 centage of the State for the preceding
15 fiscal year.

16 “(iv) SMALL STATE MINIMUM ALLOT-

17 MENT.—Subject to clause (iii), the Sec-
18 retary shall ensure that no State shall re-
19 ceive an allotment under this subparagraph
20 for a fiscal year that is less than $\frac{2}{10}$ of 1
21 percent of the remainder described in
22 clause (i) for the fiscal year.

23 “(v) DEFINITION.—For the purpose
24 of the formula specified in this subpara-
25 graph, the term ‘allotment percentage’—

1 “(I) used with respect to fiscal
 2 year 2012, means the percentage of
 3 the amounts allotted to States under
 4 the provisions listed in paragraphs
 5 (16) through (23) of section 201 of
 6 the Streamlining Workforce Develop-
 7 ment Programs Act of 2011 (as such
 8 provisions were effect on the day be-
 9 fore the date of enactment of such
 10 Act) that is received under such provi-
 11 sions by the State involved for fiscal
 12 year 2012; and

13 “(II) used with respect to fiscal
 14 year 2013 or a subsequent year,
 15 means the percentage of the remain-
 16 der described in clause (i) that is re-
 17 ceived through an allotment made
 18 under this subparagraph for the fiscal
 19 year.”.

20 **SEC. 111. WITHIN STATE ALLOCATIONS.**

21 Section 133 is amended—

22 (1) by amending subsection (a) to read as fol-
 23 lows:

24 “(a) RESERVATIONS FOR STATE ACTIVITIES.—

1 “(1) STATEWIDE EMPLOYMENT AND TRAINING
2 ACTIVITIES.—

3 “(A) IN GENERAL.—The Governor of a
4 State shall reserve up to 15 percent of the total
5 amount allotted to the State under section
6 132(b)(1)(B) for a fiscal year to carry out the
7 statewide activities described in section 134(a).

8 “(B) STATEWIDE RAPID RESPONSE ACTIVI-
9 TIES.—Of the amount reserved under subpara-
10 graph (A) for a fiscal year, the Governor of the
11 State shall reserve not more than 10 percent
12 for statewide rapid response activities described
13 in section 134(a)(2)(A).

14 “(2) STATEWIDE YOUTH WORKFORCE INVEST-
15 MENT FUND.—The Governor of a State may reserve
16 up to 2 percent of the total amount allotted to the
17 State under section 132(b)(2)(B) for a fiscal year to
18 carry out the statewide activities described in section
19 134(a).

20 “(3) STATEWIDE VETERANS WORKFORCE IN-
21 VESTMENT FUND ACTIVITIES.—The Governor of a
22 State may reserve up to 2 percent of the total
23 amount allotted to the State under section
24 132(b)(3)(B) for a fiscal year to carry out statewide
25 activities described in section 134(a).

1 “(4) STATEWIDE TARGETED POPULATION
2 WORKFORCE INVESTMENT FUND ACTIVITIES.—The
3 Governor of a State may reserve up to 2 percent of
4 the total amount allotted to the State under section
5 132(b)(4)(B) for a fiscal year to carry out the state-
6 wide activities described in section 134(a).”;

7 (2) by amending subsection (b) to read as fol-
8 lows:

9 “(b) WITHIN STATE ALLOCATION.—

10 “(1) STATEWIDE EMPLOYMENT AND TRAINING
11 ACTIVITIES.—The Governor, acting in accordance
12 with the State plan, and after consulting with chief
13 elected officials in the local areas, shall—

14 “(A) allocate the funds that are allotted to
15 the State for employment and training activities
16 and statewide workforce investment activities
17 under section 132(b)(1)(B) and not reserved
18 under subsection (a)(1), in accordance with
19 paragraph (2)(A);

20 “(B) award the funds that are allotted to
21 the State for State youth activities under sec-
22 tion 132(b)(2)(B) and not reserved under sub-
23 section (a)(2) through competitive grants to eli-
24 gible entities, in accordance with section 135;

“(C) allocate the funds that are allotted to the State for veterans employment and training activities under section 132(b)(3)(B) and not reserved under subsection (a)(3), in accordance with paragraph (2)(B); and

“(D) allocate the funds that are allotted to the State for targeted populations employment and training activities under section 132(b)(4)(B) and not reserved under subsection (a)(4), in accordance with paragraph (2)(C).

“(2) FORMULA ALLOCATIONS.—

“(A) WORKFORCE INVESTMENT FUND.—

“(i) ALLOCATION.—In allocating the funds described in paragraph (1)(A) to local areas, a State shall allocate—

“(I) $33\frac{1}{3}$ percent on the basis described in section 132(b)(B)(ii)(I);

“(II) $33\frac{1}{3}$ percent on the basis described in section 132(b)(B)(ii)(II);

and

“(III) $33\frac{1}{3}$ percent on the basis described in section 132(b)(B)(ii)(III).

“(ii) MINIMUM AND MAXIMUM PERCENTAGES.—

1 “(I) MINIMUM PERCENTAGE.—

2 The State shall ensure that no local
3 area shall receive an allotment under
4 this subparagraph for a fiscal year
5 that is less than 90 percent of the al-
6 location percentage of the local area
7 for the preceding fiscal year.

8 “(II) MAXIMUM PERCENTAGE.—

9 Subject to subclause (I), the State
10 shall ensure that no local area shall
11 receive an allocation for a fiscal year
12 under this subparagraph for a fiscal
13 year that is more than 130 percent of
14 the allocation percentage of the local
15 area for the preceding fiscal year.

16 “(iii) DEFINITIONS.—For the purpose
17 of the formula specified in this subpara-
18 graph:

19 “(I) INDIVIDUAL.—The term ‘in-
20 dividual’ means an individual who is
21 not less than age 16 and not more
22 than age 72.

23 “(II) ALLOCATION PERCENT-
24 AGE.—The term ‘allocation percent-
25 age’—

1 “(aa) used with respect to
2 fiscal year 2012, means the per-
3 centage of the amounts allocated
4 to local areas under paragraphs
5 (1) through (6) of section 201 of
6 the Streamlining Workforce De-
7 velopment Programs Act of 2011
8 and chapter 5 of this title (as
9 such provisions and such chapter
10 were in effect on the day before
11 the date of enactment of such
12 Act) that is received under such
13 provisions and such chapter by
14 the local area involved for fiscal
15 year 2012; and

16 “(bb) used with respect to
17 fiscal year 2013 or a subsequent
18 year, means the percentage of the
19 funds described in clause (i) that
20 is received through an allocation
21 made under this subparagraph
22 for the fiscal year.

23 “(B) VETERANS WORKFORCE INVESTMENT
24 FUND.—

1 “(i) ALLOCATION.—In allocating the
2 funds described in paragraph (1)(C) to
3 local areas, a State shall allocate the funds
4 on the basis described in section
5 132(b)(3)(B)(ii).

6 “(ii) MINIMUM AND MAXIMUM PER-
7 CENTAGES.—

8 “(I) MINIMUM PERCENTAGE.—
9 The State shall ensure that no local
10 area shall receive an allocation under
11 this subparagraph for a fiscal year
12 that is less than 90 percent of the al-
13 lotment percentage of the local area
14 under this subparagraph for the pre-
15 ceding fiscal year.

16 “(II) MAXIMUM PERCENTAGE.—
17 Subject to subclause (I), the State
18 shall ensure that no local area shall
19 receive an allocation for a fiscal year
20 under this subparagraph for a fiscal
21 year that is more than 130 percent of
22 the allotment percentage of the local
23 area for the preceding fiscal year.

1 “(iii) DEFINITION.—For the purpose
2 of the formula specified in this subpara-
3 graph, the term ‘allocation percentage’—

4 “(I) used with respect to fiscal
5 year 2012, means the percentage of
6 the amounts allocated to local areas
7 under paragraphs (12) through (15)
8 of section 201 of the Streamlining
9 Workforce Development Programs Act
10 of 2011 (as such provisions were in
11 effect on the day before the date of
12 enactment of such Act) that is re-
13 ceived under such provisions by the
14 local area involved for fiscal year
15 2012; and

16 “(II) used with respect to fiscal
17 year 2013 or a subsequent year,
18 means the percentage of the funds de-
19 scribed in clause (i) that is received
20 through an allocation made under this
21 subparagraph for the fiscal year.

22 “(C) TARGETED POPULATIONS WORK-
23 FORCE INVESTMENT FUND.—

24 “(i) ALLOCATION.—In allocating the
25 funds described in paragraph (1)(D) to

1 local areas, a State shall allocate funds on
 2 the basis described in section
 3 132(b)(4)(B)(ii).

4 “(ii) MINIMUM AND MAXIMUM PER-
 5 CENTAGES.—

6 “(I) MINIMUM PERCENTAGE.—

7 The State shall ensure that no local
 8 area shall receive an allotment under
 9 this paragraph for a fiscal year that is
 10 less than 90 percent of the allotment
 11 percentage of the local area under this
 12 subparagraph for the preceding fiscal
 13 year.

14 “(II) MAXIMUM PERCENTAGE.—

15 Subject to subclause (I), the State
 16 shall ensure that no local area shall
 17 receive an allotment for a fiscal year
 18 under this paragraph that is more
 19 than 130 percent of the allotment per-
 20 centage of the local area under this
 21 subparagraph for the preceding fiscal
 22 year.

23 “(iii) DEFINITION.—For the purpose
 24 of the formula specified in this subpara-
 25 graph, the term ‘allocation percentage’—

1 “(I) used with respect to fiscal
 2 year 2012, means the percentage of
 3 the amounts allocated to local areas
 4 under paragraphs (16) through (23)
 5 of section 201 of the Streamlining
 6 Workforce Development Programs Act
 7 of 2011 (as such provisions were in
 8 effect on the day before the date of
 9 enactment of such Act) that is re-
 10 ceived under such provisions by the
 11 local area involved for fiscal year
 12 2012; and

13 “(II) used with respect to fiscal
 14 year 2013 or a subsequent year,
 15 means the percentage of the funds de-
 16 scribed in clause (i) that is received
 17 through an allocation made under this
 18 subparagraph for the fiscal year.”.

19 (3) in subsection (c)—

20 (A) by amending paragraph (1) to read as
 21 follows:

22 “(1) IN GENERAL.—The Governor, may in ac-
 23 cordance with this subsection, reallocate to eligible
 24 local area within the State amounts that are allo-
 25 cated under subsection (b) for employment and

1 training activities and that are available for realloca-
 2 tion.”;

3 (B) in paragraph (2), by striking “para-
 4 graph (2)(A) or (3) of subsection (b) for such
 5 activities” and inserting “subsection (b) for
 6 such activities”;

7 (C) by amending paragraph (3) to read as
 8 follows:

9 “(3) REALLOCATIONS.—In making reallocations
 10 to eligible local areas of amounts available pursuant
 11 to paragraph (2) for a program year, the Governor
 12 shall allocate to each eligible local area within the
 13 State an amount based on the relative amount allo-
 14 cated to such local area under subsection (b)(2) for
 15 such activities for such prior program year, as com-
 16 pared to the total amount allocated to all eligible
 17 local areas in the State under subsection (b)(2) for
 18 such activities for such prior program year.”; and

19 (D) in paragraph (4), by striking “para-
 20 graph (2)(A) or (3) of”; and

21 (4) by adding at the end the following new sub-
 22 section:

23 “(d) LOCAL ADMINISTRATIVE COST LIMIT.—Of the
 24 amounts allocated to a local area under this section for
 25 a fiscal year, not more than 10 percent of the amount

1 may be used by the local board involved for the adminis-
 2 trative costs of carrying out local workforce investment ac-
 3 tivities in the local area under this chapter.”.

4 **SEC. 112. USE OF FUNDS FOR EMPLOYMENT AND TRAINING**
 5 **ACTIVITIES.**

6 Section 134 is amended—

7 (1) in subsection (a)—

8 (A) by amending paragraph (1) to read as
 9 follows:

10 “(1) IN GENERAL.—

11 “(A) IN GENERAL.—Subject to subpara-
 12 graph (C), funds reserved by a Governor for a
 13 State as described in paragraphs (1)(A), (2),
 14 (3), and (4) of section 133(a)—

15 “(i) shall be used to carry out the
 16 statewide employment and training activi-
 17 ties described in paragraph (2)(B); and

18 “(ii) may be used to carry out any of
 19 the statewide employment and training ac-
 20 tivities described in paragraph (3).

21 “(B) STATEWIDE RAPID RESPONSE ACTIVI-
 22 TIES.—Funds reserved by a Governor for a
 23 State as described in section 133(a)(1)(B) shall
 24 be used to carry out the statewide rapid re-
 25 sponse activities described in paragraph (2)(A).

1 “(C) SPECIAL RULE.—Funds reserved by a
 2 Governor for State as described in paragraphs
 3 (2), (3), and (4) of section 133(a) shall be used
 4 by the State to assist those individuals who are
 5 described in paragraphs (2)(B)(ii), (3)(B)(ii),
 6 and (4)(B)(ii) of section 132(b), respectively.”;

7 (B) in paragraph (2)—

8 (i) in subparagraph (A), by striking
 9 “section 133(a)(2)” and inserting “section
 10 133(a)(1)(B)”;

11 (ii) in subparagraph (B), by striking
 12 “sections 128” through “carry” and in-
 13 serting “section 133(a)(1)(A) to carry”;

14 (C) in paragraph (3)—

15 (i) by striking “ACTIVITIES.—” and
 16 all that follows through “A State” and in-
 17 serting “ACTIVITIES.—A State”;

18 (ii) by striking “sections 128(a)”
 19 though “to carry” and inserting “section
 20 133(a)(1)(A) to carry”;

21 (iii) by striking subparagraph (B);

22 (iv) by redesignating clauses (i)
 23 through (vii) as subparagraphs (A)
 24 through (G), respectively; and

1 (v) in subparagraph (A) (as so redes-
 2 ignated), by striking “subject to subpara-
 3 graph (B)”; and

4 (D) by adding at the end the following new
 5 paragraph:

6 “(4) LIMITATION.—Not more than 5 percent of
 7 the funds allotted under section 132(b) to a State
 8 may be used by the State for administrative activi-
 9 ties carried out under this subsection.”;

10 (2) by amending subsection (b) to read as fol-
 11 lows:

12 “(b) LOCAL EMPLOYMENT AND TRAINING ACTIVI-
 13 TIES.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
 15 funds allocated to a local area under section
 16 133(b)—

17 “(A) shall be used to carry out employ-
 18 ment and training activities described in section
 19 (d); and

20 “(B) may be used to carry out employment
 21 and training activities described in section (e).

22 “(2) SPECIAL RULE.—Funds allocated to a
 23 local area under subparagraphs (B) and (C) of sec-
 24 tion 133(b)(2) shall be used by the local board in-
 25 volved to assist those individuals who are described

1 in subparagraphs (B)(i) and (C)(i) of section
2 133(b)(2), respectively.”;

3 (3) in subsection (d)—

4 (A) in paragraph (1)(A)—

5 (i) in the matter preceding clause (i),
6 by striking “area for adults” through
7 “shall” and inserting “area under section
8 133(b) shall”;

9 (ii) in clause (ii), by striking “to
10 adults and dislocated workers, respec-
11 tively,”; and

12 (iii) in clauses (iii) and (iv), by strik-
13 ing “to adult and dislocated workers, re-
14 spectively, described in such paragraph”;

15 (B) in paragraph (2), by striking “who are
16 adults and dislocated workers”;

17 (C) in paragraph (3)(A), in the matter
18 preceding clause (i)(I), by striking “for adults”
19 through “respectively” and inserting “under
20 section 133(b) shall be used to provide training
21 services to individuals”;

22 (D) in paragraph (4)(A), in the matter
23 preceding clause (i), by striking “for adults”
24 through “respectively” and inserting “under

1 section 133(b) shall be used to provide training
 2 services to individuals''; and

3 (4) by adding at the end the following new sub-
 4 section:

5 “(f) LOCAL VETERANS’ EMPLOYMENT REPRESENTA-
 6 TIVE.—

7 “(1) IN GENERAL.—From the funds allocated
 8 to a local area under section 133(b)(2)(B)(ii), a local
 9 area shall hire and employ one or more local vet-
 10 erans’ employment representatives to carry out em-
 11 ployment, training, and placement services under
 12 this subsection.

13 “(2) PRINCIPAL DUTIES.—A local veterans’ em-
 14 ployment representative in a local area shall—

15 “(A) conduct outreach to employers in the
 16 local area to assist veterans, including disabled
 17 veterans, in gaining employment, including—

18 “(i) conducting seminars for employ-
 19 ers; and

20 “(ii) in conjunction with employers,
 21 conducting job search workshops, and es-
 22 tablishing job search groups; and

23 “(B) facilitate employment, training, and
 24 placement services furnished to veterans, in-
 25 cluding disabled veterans, in the local area

1 under the one-stop delivery system under sec-
2 tion 121.

3 “(3) **HIRING PREFERENCE FOR VETERANS AND**
4 **INDIVIDUALS WITH EXPERTISE IN SERVING VET-**
5 **ERANS.**—A local area shall, to the maximum extent
6 practicable, employ veterans or individuals with ex-
7 pertise in serving veterans to serve as the local vet-
8 erans’ employment representative and carry out the
9 services described in paragraph (2). In hiring an in-
10 dividual to serve as a local veterans’ representative,
11 a local board shall give preference to veterans and
12 other individuals in the following order:

13 “(A) To qualified service-connected dis-
14 abled veterans.

15 “(B) If no veteran described in subpara-
16 graph (A) is available, to any other veterans.

17 “(C) If no veteran described in subpara-
18 graph (A) or (B) is available, to any other indi-
19 viduals with expertise in serving veterans.

20 “(4) **REPORTING.**—Each local veterans’ employ-
21 ment representative shall be administratively respon-
22 sible to the manager of the one-stop delivery center
23 in the local area and shall provide reports, not less
24 frequently than quarterly, to the manager of such
25 center and to the Director for Veterans’ Employ-

1 ment and Training for the State on compliance by
 2 the representative with Federal law and regulations
 3 with respect to the special services and hiring pref-
 4 erences described in paragraph (3) for veterans and
 5 individuals with expertise in serving veterans.”.

6 **SEC. 113. STATE YOUTH WORKFORCE INVESTMENT FUND**
 7 **ACTIVITIES.**

8 Chapter 5 of subtitle B of title I is amended by add-
 9 ing at the end the following new section:

10 **“SEC. 135. STATE YOUTH WORKFORCE INVESTMENT FUND**
 11 **ACTIVITIES.**

12 “(a) IN GENERAL.—Of the funds allotted to a State
 13 under section 132(b)(2)(B), the Governor of a State—

14 “(1) may reserve up to 5 percent to provide
 15 technical assistance to, and conduct evaluations as
 16 described in section 172 of the programs and activi-
 17 ties carried out under this section; and

18 “(2) using the remainder, shall award grants,
 19 on a competitive basis, to eligible entities to carry
 20 out programs and activities authorized under this
 21 section to assist eligible youth in acquiring the edu-
 22 cation and skills, credentials, and employment expe-
 23 rience necessary to succeed in the labor market.

24 “(b) ELIGIBLE ENTITY DEFINED.—For purposes of
 25 this section, the term ‘eligible entity’ means—

1 “(1) a local board or a consortium of local
2 boards;

3 “(2) a nonprofit entity, for-profit entity, or a
4 consortium of nonprofit or for-profit entities with a
5 demonstrated record of—

6 “(A) placing youth into year-round employ-
7 ment;

8 “(B) successfully implementing dropout re-
9 covery activities, or

10 “(C) successfully implementing intensive
11 and fully supervised programs of education, ca-
12 reer training, and work experience; or

13 “(3) a consortium of the entities described in
14 paragraphs (1) and (2).

15 “(c) GRANT PERIOD.—

16 “(1) IN GENERAL.—A grant under this sub-
17 section shall be awarded for a period of 1 year.

18 “(2) GRANT RENEWAL.—A Governor of a State
19 may renew, for up to 4 additional 1-year periods, a
20 grant awarded under this section.

21 “(d) AUTHORITY TO REQUIRE MATCH.—A Governor
22 of a State may require that eligible entities receiving
23 grants under this section provide a non-Federal share of
24 the cost of activities carried out under this section.

1 “(e) ELIGIBLE YOUTH.—To be eligible to participate
 2 in activities under this section, an individual shall be a
 3 youth between the ages 16 and 24 as of the time the eligi-
 4 bility determination is made by the Governor of the State
 5 who is—

6 “(1) a secondary school dropout;

7 “(2) a member of a low-income family;

8 “(3) a youth in foster care (including youth
 9 aging out of foster care);

10 “(4) a youth offender;

11 “(5) a youth who is an individual with a dis-
 12 ability;

13 “(6) a child of incarcerated parents; or

14 “(7) a migrant youth.

15 “(f) USE OF FUNDS.—An eligible entity receiving a
 16 grant under this section shall use such funds for activities
 17 that are designed to assist eligible youth in acquiring the
 18 education and skills, credentials, and employment experi-
 19 ence that are necessary to succeed in the labor market
 20 by carrying out at least one of the following:

21 “(1) Training and internships for out-of-school
 22 youth in in-demand industries or occupations impor-
 23 tant to the State and local economy.

24 “(2) Dropout recovery activities that are de-
 25 signed to lead to the attainment of a secondary

1 school diploma, General Education Development
2 (GED) credential, or other State-recognized equivalent
3 (including recognized alternative standards for
4 individuals with disabilities).

5 “(3) Activities designed to assist special youth
6 populations, such as court-involved youth, homeless
7 youth, foster-children, young parents, and youth
8 with disabilities.

9 “(4) Activities combining remediation of academic
10 skills, work readiness training, and work experience,
11 and including linkages to postsecondary education
12 and training, apprenticeships, and career-ladder
13 employment.

14 “(5) Operating a residential center, such as a
15 Job Corps Center described in subsection (i) if the
16 requirements described in paragraph (3) of such
17 subsection are met, that shall be operated so as to
18 provide enrollees, in a well-supervised setting, with
19 access to activities described in this subsection.

20 “(6) Other evidence-based strategies or activities
21 designed to improve the education and employment
22 outcomes for youth.

23 “(g) APPLICATIONS.—To be eligible to receive a
24 grant under this section, an eligible entity shall submit
25 an application to a State at such time, in such manner,

1 and containing such information as the State may require,
2 including—

3 “(1) a description of how the strategies and ac-
4 tivities will be aligned with the State plan submitted
5 under section 112 and the local plans submitted
6 under section 118 with respect to the areas of the
7 State that will be the focus of grant activities under
8 this section;

9 “(2) a description of the educational and skills
10 training programs and activities the eligible entity
11 will provide to eligible youth under this section;

12 “(3) how the eligible entity will collaborate with
13 State and local workforce investment systems estab-
14 lished under this title in the provision of such pro-
15 grams and activities;

16 “(4) a description of the programs of dem-
17 onstrated effectiveness on which the provision of
18 such educational and skills training programs and
19 activities are based, and a description of how such
20 programs and activities will improve the education
21 and skills training for eligible youth;

22 “(5) a description of youth populations to be
23 served and the skill needs of those populations, and
24 the manner in which eligible youth will be recruited
25 and selected as participants;

1 “(6) a description of the private and public, and
 2 local and State resources that will be leveraged, in
 3 addition to the grant funds provided under this sec-
 4 tion, to provide the programs and activities under
 5 this section, and how the entity will ensure the sus-
 6 tainability of such programs and activities after
 7 grant funds are no longer available;

8 “(7) a description of the extent of the involve-
 9 ment of employers in such programs and activities;

10 “(8) a description of the levels of performance
 11 the eligible entity expects to achieve with respect to
 12 the indicators of performance for youth specified in
 13 section 136(b)(2)(A)(ii); and

14 “(9) a detailed budget and a description of the
 15 system of fiscal controls, and auditing and account-
 16 ability procedures that will be used to ensure fiscal
 17 soundness for the programs and activities provided
 18 under this section.

19 “(h) FACTORS FOR AWARD.—

20 “(1) IN GENERAL.—In awarding grants under
 21 this section, a State shall consider—

22 “(A) the quality of the proposed programs
 23 and activities;

24 “(B) the goals to be achieved;

1 “(C) the likelihood of successful implemen-
2 tation;

3 “(D) the extent to which the proposed pro-
4 grams and activities—

5 “(i) are based on proven strategies or
6 demonstrated results; or

7 “(ii) will expand the education and
8 skills training for eligible youth;

9 “(E) the extent of collaboration with the
10 State and local workforce investment systems in
11 carrying out the proposed programs and activi-
12 ties;

13 “(F) the extent of employer involvement in
14 the proposed programs and activities;

15 “(G) whether there are other Federal and
16 non-Federal funds available for similar activi-
17 ties to the proposed programs and activities,
18 and the additional State, local, and private re-
19 sources that will be provided to carry out the
20 proposed programs and activities;

21 “(H) the quality of the proposed programs
22 and activities in meeting the needs of the eligi-
23 ble youth to be served; and

24 “(I) the extent to which the proposed pro-
25 grams and activities will expand on services

1 provided to individuals between 16 and 24 years
 2 of age provided under section 134.

3 “(2) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this section the
 4 State shall ensure an equitable distribution of such
 5 grants across geographically diverse areas.
 6

7 “(i) ADDITIONAL USES OF FUNDS.—

8 “(1) IN GENERAL.—If the requirements de-
 9 scribed in paragraph (3) are met, an eligible entity
 10 may use a grant received under this section to oper-
 11 ate a Job Corps Center that was established under
 12 subtitle C (as in effect on the day before the enact-
 13 ment of the Streamlining Workforce Development
 14 Programs Act of 2011) and in existence on the day
 15 before the enactment of such Act to—

16 “(A) provide work-based learning through-
 17 out the enrollment of the enrollees of such Cen-
 18 ter; and

19 “(B) assist the enrollees in obtaining
 20 meaningful unsubsidized employment, partici-
 21 pating in secondary or postsecondary education
 22 programs, enrolling in other suitable career
 23 training programs, or satisfying Armed Forces
 24 requirements, on completion of their enrollment.

1 “(2) LIMITATION.—An eligible entity may use
2 not more than 10 percent of the grant funds re-
3 ceived under this section for construction and facili-
4 ties improvement of a Job Corps Center.

5 “(3) REQUIREMENTS.—In order for an eligible
6 entity to operate a Job Corps Center under para-
7 graph (1), the following requirements shall be met:

8 “(A) The State has submitted to the Sec-
9 retary, a written request for the appropriate
10 title and deed for such Job Corps Center, and
11 has been granted such title and deed under
12 paragraph (4)(A).

13 “(B) The State agency, or appropriate
14 agency responsible for inspecting public build-
15 ings and safeguarding the health of disadvan-
16 tagged students, has conducted an in-person re-
17 view of the physical condition and health-related
18 activities of the Job Corps Center. Such review
19 shall include a passing rate of occupancy under
20 State and local ordinances.

21 “(C) The State has demonstrated, as part
22 of the State plan in section 112, that it has de-
23 veloped and will enforce professional standards
24 of conduct.

25 “(4) SECRETARIAL ACTIONS.—

“(A) IN GENERAL.—Upon receiving a written request from a State under paragraph (3)(A), the Secretary, in coordination with the Administrator of the General Services Administration, shall transfer the title and deed for the appropriate Job Corps Center to the State within 30 days. The Secretary shall be prohibited from imposing any requirement on a State in exchange for such title and deed.

“(B) TRANSITION.—After 365 calendar days after the date of enactment of Streamlining Workforce Development Programs Act of 2011, the Secretary shall transfer all Job Corps Centers with respect to which the Secretary has not received a written request under paragraph (3)(A) to the Administrator of the General Services Administration for disposal of excess Federal real property.”.

SEC. 114. PERFORMANCE ACCOUNTABILITY SYSTEM.

Section 136 is amended—

(1) in subsection (b)—

(A) by amending paragraphs (1) and (2) to read as follows:

“(1) IN GENERAL.—For each State, the State performance measures shall consist of—

1 “(A)(i) the core indicators of performance
2 described in paragraph (2)(A); and

3 “(ii) additional indicators of performance
4 (if any) identified by the State under paragraph
5 (2)(C); and

6 “(B) a State adjusted level of performance
7 for each indicator described in subparagraph
8 (A).

9 “(2) INDICATORS OF PERFORMANCE.—

10 “(A) CORE INDICATORS OF PERFORM-
11 ANCE.—

12 “(i) IN GENERAL.—The core indica-
13 tors of performance for the program of em-
14 ployment and training activities authorized
15 under section 134, the program of adult
16 education and literacy activities authorized
17 under title II, and the program authorized
18 under title I of the Rehabilitation Act of
19 1973 (29 U.S.C. 720 et seq.), other than
20 section 112 or part C of that title (29
21 U.S.C. 732, 741), shall consist of—

22 “(I) the percentage of program
23 participants who are employed during
24 the first or second full calendar quar-
25 ter after exit from the program;

1 “(II) the percentage of program
2 participants who are employed during
3 the 2 full calendar quarters subse-
4 quent to the earliest full calendar
5 quarter during which the participant
6 was employed as described in sub-
7 clause (I);

8 “(III) the median earnings of
9 program participants who are em-
10 ployed during the 2 subsequent full
11 calendar quarters described in sub-
12 clause (II); and

13 “(IV) the percentage of program
14 participants who obtain a recognized
15 postsecondary credential, or a sec-
16 ondary school diploma or its recog-
17 nized equivalent (subject to clause
18 (iii)), during participation in or within
19 1 year after exit from program.

20 “(ii) CORE INDICATORS FOR ELIGIBLE
21 YOUTH.—The core indicators of perform-
22 ance for the program of youth activities
23 authorized under section 135, shall in-
24 clude—

1 “(I) the percentage of program
2 participants who are in education or
3 training activities, employed, or in the
4 military service, during the first or
5 second full calendar quarter after exit
6 from the program;

7 “(II) the percentage of program
8 participants who obtain a recognized
9 postsecondary credential described in
10 clause (i)(IV), or a secondary school
11 diploma or its recognized equivalent
12 (subject to clause (iii)), during partici-
13 pation in or within 1 year after exit
14 from the program; and

15 “(III) the median earnings of
16 program participants who are em-
17 ployed during the 2 subsequent full
18 calendar quarters described in sub-
19 clause (II).

20 “(iii) INDICATOR RELATING TO CRE-
21 DENTIAL.—For purposes of clause (i)(IV)
22 or (ii)(II), program participants who ob-
23 tain a secondary school diploma or its rec-
24 ognized equivalent shall be included in the
25 percentage counted as meeting the cri-

1 terion under such clause only if such par-
 2 ticipants, in addition to obtaining such di-
 3 ploma or its recognized equivalent, have
 4 obtained employment or are in an edu-
 5 cation or training program leading to a
 6 recognized postsecondary credential de-
 7 scribed in clause (i)(IV) within 1 year after
 8 exit from the program.

9 “(B) ADDITIONAL INDICATORS.—A State
 10 may identify in the State plan additional indica-
 11 tors for workforce investment activities author-
 12 ized under this subtitle.”;

13 (B) in paragraph (3)—

14 (i) in subparagraph (A)—

15 (I) in the heading, by striking

16 “AND CUSTOMER SATISFACTION INDI-
 17 CATOR”;

18 (II) in clause (i), by striking

19 “and the customer satisfaction indi-
 20 cator described in paragraph (2)(B)”;

21 (III) in clause (ii), by striking

22 “and the customer satisfaction indi-
 23 cator of performance, for the first 3”
 24 and inserting “, for the first 2”;

25 (IV) in clause (iii)—

1 (aa) in the heading, by
2 striking “3 YEARS” and inserting
3 “2 YEARS”; and

4 (bb) by striking “and the
5 customer satisfaction indicator of
6 performance, for the first 3 pro-
7 gram years” and inserting “for
8 the first 2 program years”;

9 (V) in clause (iv), by striking
10 subclause (I) and redesignating sub-
11 clauses (II) and (II) as subclauses (I)
12 and (II), respectively;

13 (VI) in clause (v)—

14 (aa) in the heading, by
15 striking “4TH AND 5TH YEARS”
16 and inserting “**3RD AND 4TH**
17 **YEARS**”;

18 (bb) by striking “4th pro-
19 gram year” and inserting “3rd
20 program year”; and

21 (cc) by striking “4th and
22 5th program years” and inserting
23 “3rd and 4th program years”;
24 and

1 (VII) in clause (vi), by striking
 2 “described in clause (iv)(II)” and in-
 3 serting “described in clause (iv)(I”;
 4 and

5 (ii) in subparagraph (B), by striking
 6 “paragraph (2)(C)” and inserting “para-
 7 graph (2)(B)”;

8 (2) in subsection (c)(1)(A)—

9 (A) by amending clause (i) to read as fol-
 10 lows:

11 “(i) the core indicators of perform-
 12 ance described in subsection (b)(2)(A) for
 13 activities described in such subsection,
 14 other than statewide workforce investment
 15 activities; and”; and

16 (B) in clause (ii), by striking “(b)(2)(C)”
 17 and inserting “(b)(2)(B)”;

18 (3) in subsection (d)—

19 (A) in paragraph (1)—

20 (i) by striking “127 or”; and

21 (ii) by striking “and the customer sat-
 22 isfaction indicator” each place it appears;

23 (B) in paragraph (2)—

24 (i) by striking “and” at the end of
 25 subparagraph (E);

1 (ii) by striking the period at the end
2 of subparagraph (F) and inserting “; and”;
3 and

4 (iii) by adding at the end, the fol-
5 lowing:

6 “(G) with respect to each local area in the
7 State—

8 “(i) the number of individuals who re-
9 ceived core, intensive, and training services
10 under section 134(d) during the most re-
11 cent program year and fiscal year, and the
12 preceding 5 program years, and where the
13 individuals received the training,
14 disaggregated by the type of entity that
15 provided the training;

16 “(ii) the number of individuals who
17 successfully exited out of core, intensive,
18 and training services under section 134(d)
19 during the most recent program year and
20 fiscal year, and the preceding 5 program
21 years, and where the individuals received
22 the training, disaggregated by the type of
23 entity that provided the training; and

24 “(iii) the average cost per participant
25 of those individuals who received core, in-

1 tensive, and training services under section
 2 134(d) during the most recent program
 3 year and fiscal year, and the preceding 5
 4 programs years, and where the individuals
 5 received the training, disaggregated by the
 6 type of entity that provided the training.”;
 7 and

8 (C) in paragraph (3), by striking “through
 9 publication” and inserting “through electronic
 10 means”;

11 (4) in subsection (g)(1)(B), by striking “may
 12 reduce by not more than 5 percent,” and inserting
 13 “shall reduce”;

14 (5) in subsection (h)(2)—

15 (A) in subparagraph (A), by amending the
 16 matter preceding clause (i) to read as follows:

17 “(A) IN GENERAL.—If such failure con-
 18 tinues for a second consecutive year, the Gov-
 19 ernor shall take correction actions, including
 20 the development of a reorganization plan. Such
 21 plan shall—”;

22 (B) by redesignating subparagraphs (B)
 23 and (C) as subparagraphs (C) and (D), respec-
 24 tively;

1 (C) by inserting after subparagraph (A),
 2 the following:

3 “(B) REDUCTION IN THE AMOUNT OF
 4 GRANT.—If such failure continues for a third
 5 consecutive year, the Governor of a State shall
 6 reduce the amount of the grant that would (in
 7 the absence of this subparagraph) be payable to
 8 the local area under such program for the pro-
 9 gram year after such third consecutive year.
 10 Such penalty shall be based on the degree of
 11 failure to meet local levels of performance.”;

12 (D) in subparagraph (C)(i) (as so redesign-
 13 nated), by striking “a reorganization plan
 14 under subparagraph (A) may, not later than 30
 15 years after receiving notice of the reorganiza-
 16 tion plan, appeal to the Governor to rescind or
 17 revise such a plan” and inserting “correction
 18 actions under subparagraphs (A) and (B) may,
 19 not later than 30 days after receiving notice of
 20 the actions, appeal to the Governor to rescind
 21 or revise such actions”; and

22 (E) in subparagraph (D) (as so redesign-
 23 nated), by striking “subparagraph (B)” and in-
 24 serting “subparagraph (C)” each place it ap-
 25 pears; and

1 (6) in subsection (i)(1)(B), by striking “sub-
2 section (b)(2)(C)” and inserting “subsection
3 (b)(2)(B)”.

4 **SEC. 115. AUTHORIZATION OF APPROPRIATIONS.**

5 Section 137 is amended to read as follows:

6 **“SEC. 137. AUTHORIZATION OF APPROPRIATIONS.**

7 “(a) EMPLOYMENT AND TRAINING ACTIVITIES.—

8 There are authorized to be appropriated to carry out the
9 activities described in section 132(a)(2), \$4,300,000,000
10 for fiscal year 2013 and each of the 5 succeeding fiscal
11 years.

12 “(b) STATEWIDE YOUTH EMPLOYMENT AND TRAIN-
13 ING ACTIVITIES.—There are authorized to be appro-
14 priated to carry out the activities described in section
15 132(a)(3), \$1,900,000,000 for fiscal year 2013 and each
16 of the 5 succeeding fiscal years.

17 “(c) VETERANS EMPLOYMENT AND TRAINING AC-
18 TIVITIES.—There are authorized to be appropriated to
19 carry out the activities described in section 132(a)(4),
20 \$218,000,000 for fiscal year 2013 and each of the 5 suc-
21 ceeding fiscal years.

22 “(d) TARGETED POPULATIONS EMPLOYMENT AND
23 TRAINING ACTIVITIES.—There are authorized to be ap-
24 propriated to carry out the activities described in section

1 132(a)(5), \$581,000,000 for fiscal year 2013 and each of
 2 the 5 succeeding fiscal years.”.

3 **SEC. 116. EVALUATIONS.**

4 Section 172 is amended—

5 (1) in subsection (a), by striking “the Secretary
 6 shall provide for the continuing evaluation of the
 7 programs and activities,” and inserting “the Sec-
 8 retary, through grants, contracts, or cooperative
 9 agreements, shall conduct, at least once every 5
 10 years, an independent evaluation of the programs
 11 and activities”; and

12 (2) by adding at the end, the following:

13 “(g) PUBLIC AVAILABILITY.—The results of the eval-
 14 uations conducted under this section shall be made pub-
 15 licly available, including by posting such results on the De-
 16 partment’s website.”.

17 **SEC. 117. STATE UNIFIED PLAN.**

18 Section 501 is amended—

19 (1) by amending subsection (b) to read as fol-
 20 lows:

21 “(b) STATE UNIFIED PLAN.—

22 “(1) IN GENERAL.—A State may develop and
 23 submit to the appropriate Secretaries a State unified
 24 plan for 2 or more of the activities or programs set
 25 forth in paragraph (2). The State unified plan shall

1 cover one or more of the activities set forth in sub-
 2 paragraphs (A) and (B) of paragraph (2) and may
 3 cover one or more of the activities set forth in sub-
 4 paragraphs (C) through (M) of paragraph (2). For
 5 purposes of this paragraph, the activities and pro-
 6 grams described in subparagraphs (A) and (B) of
 7 paragraph (2) shall not be considered to be 2 or
 8 more activities or programs for purposes of the uni-
 9 fied plan. Such activities or programs shall be con-
 10 sidered to be 1 activity or program.

11 “(2) ACTIVITIES AND PROGRAMS.—The activi-
 12 ties and programs referred to in paragraph (1) are
 13 as follows:

14 “(A) Programs and activities authorized
 15 under title I.

16 “(B) Programs and activities authorized
 17 under title II.

18 “(C) Programs authorized under the Reha-
 19 bilitation Act of 1973.

20 “(D) Secondary career education programs
 21 authorized under the Carl D. Perkins Career
 22 and Applied Technology Education Act.

23 “(E) Postsecondary career education pro-
 24 grams authorized under the Carl D. Perkins
 25 Career and Applied Technology Education Act.

1 “(F) Programs and activities authorized
2 under title II of the Trade Act of 1974.

3 “(G) National Apprenticeship Act of 1937.

4 “(H) Programs authorized under the Com-
5 munity Services Block Grant Act.

6 “(I) Programs authorized under the part A
7 of title IV of the Social Security Act.

8 “(J) Programs authorized under State un-
9 employment compensation laws (in accordance
10 with applicable Federal law).

11 “(K) Work programs authorized under sec-
12 tion 6(o) of the Food Stamp Act of 1977.

13 “(L) Programs and activities authorized
14 title I of the Housing and Community Develop-
15 ment Act of 1974.

16 “(M) Programs and activities authorized
17 under the Public Workers and Economic Devel-
18 opment Act of 1965.”; and

19 (2) by adding at the end, the following:

20 “(e) AUTHORITY TO CONSOLIDATE FUNDS INTO
21 WORKFORCE INVESTMENT FUND.—

22 “(1) IN GENERAL.—A State may consolidate
23 funds allotted to a State under an approved applica-
24 tion under subsection (d) into the Workforce Invest-
25 ment Fund under section 132(b)(1) in order to re-

duce inefficiencies in the administration of federally-funded State and local employment and training programs.

“(2) TREATMENT OF FUNDS.—

“(A) IN GENERAL.—Notwithstanding subsection (c), a State with an approved application under subsection (d) may treat any and all funds consolidated into the Workforce Investment Fund as if they were original funds allotted to a State under section 132(b)(1)(A).

“(B) APPLICABILITY.—Such a State shall continue to make reservations, except the reservation under section 133(a)(1)(B), and allotments in accordance with section 133(b)(2).”.

TITLE II—REPEALS

SEC. 201. REPEALS.

The following provisions are repealed:

(1) Chapter 4 of title I of the Workforce Investment Act of 1998.

(2) Title V of the Older Americans Act of 1965.

(3) Sections 1 through 13 of the Wagner-Peyser Act of 1933.

(4) Section 428 of the H-1B Visa Reform Act of 2004.

1 (5) Section 6(d)(4) and paragraphs (1) through
2 (5) of section 16(h) of the Food Stamp Act of 1977.

3 (6) Sections 101(39), 104(k)(6), and
4 311(b)(3)(9) of the Comprehensive Environmental
5 Response, Compensation, and Liability Act of 1980
6 (42 U.S.C. 9601(39); 9604(k)(6); and
7 9660(b)(3)(9)) and section 8001 of the Solid Waste
8 Disposal Act.

9 (7) Subtitle C of title I of the Workforce Invest-
10 ment Act of 1998.

11 (8) Section 173A of the Workforce Investment
12 Act of 1998.

13 (9) Section 509 of title 32, United States Code
14 (National Guard Youth Challenge Program of oppor-
15 tunities for civilian youth).

16 (10) Youth Conservation Corps Act of 1970 (16
17 U.S.C 1701 et seq.).

18 (11) Public Lands Corps Act of 1993 (16
19 U.S.C 1721–1730a).

20 (12) Sections 4103A and 4104 of title 38,
21 United States Code.

22 (13) Section 168 of the Workforce Investment
23 Act of 1998.

24 (14) Section 2021 of title 38, United States
25 Code (Homeless Veterans Reintegration Programs).

1 (15) Section 1144 of title 10, United States
2 Code (Employment assistance, job training assist-
3 ance, and other transitional services).

4 (16) Section 166 of the Workforce Investment
5 Act of 1998.

6 (17) Section 167 of the Workforce Investment
7 Act of 1998.

8 (18) Section 171(d) of the Workforce Invest-
9 ment Act of 1998.

10 (19) Section 1151 of title 20, United States
11 Code (Grants to States for workplace and commu-
12 nity transition training for incarcerated individuals).

13 (20) Section 612 of title 42, United States
14 Code (Grants for Indian Tribes).

15 (21) Snyder Act of 1921 (25 U.S.C. 13), In-
16 dian Adult Vocational Training Act of 1956 (25
17 U.S.C. 309), and the Indian Self-Determination and
18 Education Assistance Act (25 U.S.C. 450b et seq.).

19 (22) Section 412 of the Immigration and Na-
20 tionality Act (8 U.S.C. 1522), section 501(a) of the
21 Refugee Education Assistance Act of 1980 (94 Stat.
22 1809; 8 U.S.C. 1522 note), sections 212 through
23 235 of the William Wilberforce Trafficking Victims
24 Protection Reauthorization Act of 2008 (Public Law

1 110–457) and the amendments made by such sec-
 2 tions.

3 (23) Section 231 of the Second Chance Act of
 4 2007 (Public Law 110–199).

5 (24) Chapter 27 of title 29, United States Code
 6 (Women in Apprenticeship and Nontraditional Occu-
 7 pations).

8 (25) Section 242 of the Workforce Investment
 9 Act of 1998.

10 (26) Section 169 of the Workforce Investment
 11 Act of 1998.

12 (27) Section 171(e) of the Workforce Invest-
 13 ment Act of 1998.

14 **TITLE III—AMENDMENTS TO**
 15 **THE REHABILITATION ACT OF**
 16 **1973**

17 **SEC. 301. AMENDMENTS TO TITLE I.**

18 Part A of title I of the Rehabilitation Act of 1973
 19 (29 U.S.C. 720 et seq.) is amended—

20 (1) in subsection (a) of section 101—

21 (A) in paragraph (22)—

22 (i) by striking “carrying out part B of
 23 title VI, including”; and

1 (ii) by striking “that part to supple-
 2 ment funds made available under part B
 3 of”;

4 (B) in paragraph (24)(A), by striking
 5 “part A of title VI” and inserting “section
 6 109A”; and

7 (C) by adding at the end the following:

8 “(25) COLLABORATION WITH INDUSTRY.—The
 9 State plan shall describe how the designated State
 10 agency will carry out the provisions of section 109A,
 11 including—

12 “(A) the criteria such agency will use to
 13 award grants under such section; and

14 “(B) how the activities carried out under
 15 such grants will be coordinated with other serv-
 16 ices provided under this title.”; and

17 (2) by adding at the end the following:

18 **“SEC. 109A. COLLABORATION WITH INDUSTRY.**

19 “(a) **AUTHORITY.**—A State shall use not less than
 20 one-half of one percent of the payment the State received
 21 under section 111 for a fiscal year to award grants to eligi-
 22 ble entities to create practical job and career readiness and
 23 training programs, and to provide job placements and ca-
 24 reer advancement.

1 “(b) APPLICATION.—To receive a grant under this
2 section, an eligible entity shall submit an application to
3 a designated State agency at such time, in such manner,
4 and containing such information as such agency shall re-
5 quire. Such application shall include, at a minimum—

6 “(1) a plan for evaluating the effectiveness of
7 the program;

8 “(2) a plan for collecting and reporting the
9 data and information described under subparagraphs
10 (A) through (C) of section 101(a)(10), as deter-
11 mined appropriate by the designated State agency;
12 and

13 “(3) a plan for providing for the non-Federal
14 share of the costs of the program.

15 “(c) ACTIVITIES.—An eligible entity receiving a grant
16 under this section shall use the grant funds to carry out
17 a program that provides one or more of the following.

18 “(1) Job development, job placement, and ca-
19 reer advancement services for individuals with dis-
20 abilities.

21 “(2) Training in realistic work settings in order
22 to prepare individuals with disabilities for employ-
23 ment and career advancement in the competitive
24 market.

1 “(3) Providing individuals with disabilities with
 2 such support services as may be required in order to
 3 maintain the employment and career advancement
 4 for which the individuals have received training.

5 “(d) AWARDS.—Grants under this section shall—

6 “(1) be awarded for a period not to exceed 5
 7 years; and

8 “(2) be awarded competitively.

9 “(e) ELIGIBLE ENTITY DEFINED.—For the purposes
 10 of this section, the term ‘eligible entity’ means a for-profit
 11 business, alone or in partnership with one or more of the
 12 following—

13 “(1) community rehabilitation providers;

14 “(2) Indian tribes; and

15 “(3) tribal organizations.

16 “(f) FEDERAL SHARE.—The Federal share of a pro-
 17 gram under this section shall not exceed 80 percent of the
 18 costs of the program.

19 “(g) ELIGIBILITY FOR SERVICES.—An individual
 20 shall be eligible for services provided under a program
 21 under this section if the individual is determined under
 22 section 102(a)(1) to be eligible for assistance under this
 23 title.”.

1 **SEC. 302. AMENDMENTS TO TITLE III.**

2 Title III of the Rehabilitation Act of 1973 (29 U.S.C.
3 771 et seq.) is amended—

4 (1) in section 301(a)—

5 (A) in paragraph (2), by inserting “and”
6 at the end;

7 (B) by striking paragraphs (3) and (4);
8 and

9 (C) by redesignating paragraph (5) as
10 paragraph (3);

11 (2) in section 302(g)—

12 (A) in the heading, by striking “And In-
13 Service Training”; and

14 (B) by striking paragraph (3);

15 (3) by striking sections 304 and 305; and

16 (4) by redesignating section 306 as section 304.

17 **SEC. 303. REPEAL OF TITLE VI.**

18 The Rehabilitation Act of 1973 (29 U.S.C. 701 et
19 seq.) is amended by repealing title VI.

○

COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: S. 2020, Keeping All Students Safe Act

BILL SUMMARY: This bill would prohibit the use of seclusion in locked and unattended rooms/enclosures, prohibit the use of mechanical, chemical, and physical restraints that restrict breathing, and prohibit aversive behavioral interventions that compromise health and safety. The bill would also:

- prohibit the use of physical restraints except for emergency situations;
- prohibit the use of physical restraints that inhibit a student's primary means of communication;
- prohibit the use of seclusions and/or restraints in a student's individual education plan (IEP) or any other behavioral plan;
- call for states to promote preventative programming to reduce the use of restraints;
- call for states to collect data on the occurrence of seclusions and restraints;
- call for schools to conduct a debriefing with parents and staff after a restraint is used and plan for positive behavioral interventions that will prevent the use of restraints with the student in the future; and,
- establish a state grant program to enhance the State's ability to promote, within its LEAs, preventative programming and training for school personnel.

BACKGROUND: According to a 2009 Government Accountability Office (GAO) study, restraints and seclusion have resulted in physical injury and psychological trauma to thousands of students in public and private schools throughout the country, many of them students with disabilities. Estimates from the GAO are that over 200 students have died due to seclusion and restraints being used in schools over the past five years.

Disability Rights California has released two reports on restraints and seclusion, Restraints and Seclusion in Public Schools: A Failing Grade and The Lethal Hazard of Prone Restraint: Positional Asphyxiation. These reports make it evident that these practices are often employed with students despite their significant potential for harm.

ANALYSIS/DISCUSSION: By limiting the use of seclusion and restraint, S. 2020 significantly reduces the risks students may incur. Some may argue that this bill does not go far enough and should eliminate the practice; however federal (HR 4247 and S. 2860) and state (AB 1538, Ma) bills that sought to do so in the last two years have failed to pass the legislative process.

S. 2020 would promote the development of effective intervention and prevention practices, emphasize de-escalation, conflict management, and evidence-based practices shown to be effective in preventing physical restraint; and mandate the use of data-based decision-making and evidence-based positive behavioral interventions and supports.

Many families have reported that they have not been informed by schools of incidents regarding restraint and seclusion. This bill directly addresses this issue by calling for schools to conduct a debriefing with parents and staff after a restraint is used and to make plans to avoid their use in the future.

The following organizations support S. 2020: Easter Seals, United Cerebral Palsy, the Arc of the United States, the National Disabilities Rights Network, and the Council of Parent and Attorney Advocates (COPAA).

COUNCIL STRATEGIC PLAN OBJECTIVE: The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

PRIOR COUNCIL ACTIVITY: The Council has previously supported HR 4247 (Preventing Harmful Restraints and Seclusion in the Schools Act) and S. 2860 (Keeping All Students Safe Act). In those bills, some amendments were considered that the Council opposed (to permit the planned use of seclusion and restraints to be included in the IEP and to exempt private schools from the bills' provisions). S. 2020 does not include either of these provisions at the time of this writing.

LPPC RECOMMENDATION: Pending

ATTACHMENTS: S. 2020; Harkin press release; and advocates sign on letter

PREPARED: Christofer Arroyo, January 4, 2012

112TH CONGRESS
1ST SESSION

S. 2020

To protect all school children against harmful and life-threatening seclusion
and restraint practices.

IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2011

Mr. HARKIN introduced the following bill; which was read twice and referred
to the Committee on Health, Education, Labor, and Pensions

A BILL

To protect all school children against harmful and life-
threatening seclusion and restraint practices.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keeping All Students
5 Safe Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **APPLICABLE PROGRAM.**—The term “appli-
9 cable program” has the meaning given the term in

1 section 400(c)(1) of the General Education Provi-
 2 sions Act (20 U.S.C. 1221(c)(1)).

3 (2) CHEMICAL RESTRAINT.—The term “chem-
 4 ical restraint” means a drug or medication used on
 5 a student to control behavior or restrict freedom of
 6 movement that is not—

7 (A) prescribed by a licensed physician, or
 8 other qualified health professional acting under
 9 the scope of the professional’s authority under
 10 State law, for the standard treatment of a stu-
 11 dent’s medical or psychiatric condition; and

12 (B) administered as prescribed by the li-
 13 censed physician or other qualified health pro-
 14 fessional acting under the scope of the profes-
 15 sional’s authority under State law.

16 (3) ESEA DEFINITIONS.—The terms—

17 (A) “Department”, “educational service
 18 agency”, “elementary school”, “local edu-
 19 cational agency”, “parent”, “secondary school”,
 20 “State”, and “State educational agency” have
 21 the meanings given such terms in section 9101
 22 of the Elementary and Secondary Education
 23 Act of 1965 (20 U.S.C. 7801); and

1 (B) “school resource officer” and “school
 2 personnel” have the meanings given such terms
 3 in section 4151 of such Act (20 U.S.C. 7161).

4 (4) FEDERAL FINANCIAL ASSISTANCE.—The
 5 term “Federal financial assistance” means any
 6 grant, loan, contract (other than a procurement con-
 7 tract or a contract of insurance or guaranty), or any
 8 other arrangement by which the Department pro-
 9 vides or otherwise makes available assistance in the
 10 form of—

11 (A) funds;

12 (B) services of Federal personnel; or

13 (C) real and personal property or any in-
 14 terest in or use of such property, including—

15 (i) transfers or leases of such property
 16 for less than fair market value or for re-
 17 duced consideration; and

18 (ii) proceeds from a subsequent trans-
 19 fer or lease of such property if the Federal
 20 share of its fair market value is not re-
 21 turned to the Federal Government.

22 (5) FREE APPROPRIATE PUBLIC EDUCATION.—
 23 For those students eligible for special education and
 24 related services under the Individuals with Disabil-
 25 ities Education Act (20 U.S.C. 1400 et seq.), the

term “free appropriate public education” has the meaning given the term in section 602 of such Act (20 U.S.C. 1401).

(6) MECHANICAL RESTRAINT.—The term “mechanical restraint”—

(A) has the meaning given the term in section 595(d)(1) of the Public Health Service Act (42 U.S.C. 290jj(d)(1)), except that the meaning shall be applied by substituting “student’s” for “resident’s”; and

(B) does not mean devices used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed, including—

(i) restraints for medical immobilization;

(ii) adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

(iii) vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

1 (7) PHYSICAL ESCORT.—The term “physical es-
 2 cort” means the temporary touching or holding of
 3 the hand, wrist, arm, shoulder, waist, hip, or back
 4 for the purpose of inducing a student to move to a
 5 safe location.

6 (8) PHYSICAL RESTRAINT.—The term “physical
 7 restraint” means a personal restriction that immo-
 8 bilizes or reduces the ability of an individual to move
 9 the individual’s arms, legs, body, or head freely.
 10 Such term does not include a physical escort, me-
 11 chanical restraint, or chemical restraint.

12 (9) POSITIVE BEHAVIORAL INTERVENTIONS
 13 AND SUPPORTS.—The term “positive behavioral
 14 interventions and supports”—

15 (A) means a school-wide systematic ap-
 16 proach to embed evidence-based practices and
 17 data-driven decisionmaking to improve school
 18 climate and culture in order to achieve im-
 19 proved academic and social outcomes, and in-
 20 crease learning for all students, including those
 21 with the most complex and intensive behavioral
 22 needs; and

23 (B) encompasses a range of systemic and
 24 individualized positive strategies to reinforce de-
 25 sired behaviors, diminish reoccurrence of chal-

1 lenging behaviors, and teach appropriate behav-
2 iors to students.

3 (10) PROTECTION AND ADVOCACY SYSTEM.—

4 The term “protection and advocacy system” means
5 a protection and advocacy system established under
6 subtitle C of title I of the Developmental Disabilities
7 Assistance and Bill of Rights Act of 2000 (42
8 U.S.C. 15041 et seq.).

9 (11) SECLUSION.—The term “seclusion” means
10 the isolation of a student in a room, enclosure, or
11 space that is—

12 (A) locked; or

13 (B) unlocked and the student is prevented
14 from leaving.

15 (12) SECRETARY.—The term “Secretary”
16 means the Secretary of Education, and, where ap-
17 propriate, the Secretary of the Interior and the Sec-
18 retary of Defense.

19 (13) SERIOUS BODILY INJURY.—The term “se-
20 rious bodily injury” has the meaning given the term
21 in section 1365(h) of title 18, United States Code.

22 (14) STATE-APPROVED CRISIS INTERVENTION
23 TRAINING PROGRAM.—The term “State-approved
24 crisis intervention training program” means a train-
25 ing program approved by a State that, at a min-

imum, provides training in evidence-based practices shown to be effective—

(A) in the prevention of the use of physical restraint;

(B) in keeping both school personnel and students safe in imposing physical restraint in a manner consistent with this Act;

(C) in the use of data-based decision-making and evidence-based positive behavioral interventions and supports, safe physical escort, conflict prevention, behavioral antecedents, functional behavioral assessments, de-escalation of challenging behaviors, and conflict management;

(D) in first aid, including the signs of medical distress, and cardiopulmonary resuscitation; and

(E) certification for school personnel in the practices and skills described in subparagraphs (A) through (D), which shall be required to be renewed on a periodic basis.

(15) STUDENT.—The term “student” means a student who—

(A) is enrolled in a public school;

(B) is enrolled in a private school and is receiving a free appropriate public education at the school under subparagraph (B) or (C) of section 612(a)(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(10)(B), (C));

(C) is enrolled in a Head Start or Early Head Start program supported under the Head Start Act (42 U.S.C. 9831); or

(D) receives services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.).

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to promote the development of effective intervention and prevention practices that do not use restraints and seclusion;

(2) to protect all students from physical or mental abuse, aversive behavioral interventions that compromise health and safety, and any restraint imposed for purposes of coercion, discipline or convenience, or as a substitute for appropriate educational or positive behavioral interventions and supports;

(3) to ensure that staff are safe from the harm that can occur from inexpertly using restraints; and

1 (4) to ensure the safety of all students and
 2 school personnel and promote positive school culture
 3 and climate.

4 **SEC. 4. MINIMUM STANDARDS; RULE OF CONSTRUCTION.**

5 Each State and local educational agency receiving
 6 Federal financial assistance shall have in place policies
 7 that are consistent with the following:

8 (1) PROHIBITION OF CERTAIN ACTION.—School
 9 personnel, contractors, and resource officers are pro-
 10 hibited from imposing on any student—

11 (A) seclusion;

12 (B) mechanical restraint;

13 (C) chemical restraint;

14 (D) aversive behavioral interventions that
 15 compromise health and safety;

16 (E) physical restraint that is life-threat-
 17 ening, including physical restraint that restricts
 18 breathing; and

19 (F) physical restraint if contraindicated
 20 based on the student's disability, health care
 21 needs, or medical or psychiatric condition, as
 22 documented in a health care directive or med-
 23 ical management plan, a behavior intervention
 24 plan, an individualized education program or an
 25 individualized family service plan (as defined in

1 section 602 of the Individuals with Disabilities
 2 Education Act (20 U.S.C. 1401)), or plan de-
 3 veloped pursuant to section 504 of the Rehabili-
 4 tation Act of 1973 (29 U.S.C. 794), or other
 5 relevant record made available to the State or
 6 local educational agency.

7 (2) PHYSICAL RESTRAINT.—

8 (A) IN GENERAL.—Physical restraint may
 9 only be implemented if—

10 (i) the student’s behavior poses an im-
 11 mediate danger of serious bodily injury to
 12 self or others;

13 (ii) the physical restraint does not
 14 interfere with the student’s ability to com-
 15 municate in the student’s primary lan-
 16 guage or mode of communication; and

17 (iii) less restrictive interventions have
 18 been ineffective in stopping the immediate
 19 danger of serious bodily injury to the stu-
 20 dent or others, except in a case of a rare
 21 and clearly unavoidable emergency cir-
 22 cumstance posing immediate danger of se-
 23 rious bodily injury.

24 (B) LEAST AMOUNT OF FORCE NEC-
 25 ESSARY.—When implementing a physical re-

1 straint, staff shall use only the amount of force
2 necessary to protect the student or others from
3 the threatened injury.

4 (C) END OF PHYSICAL RESTRAINT.—The
5 use of physical restraint shall end when—

6 (i) a medical condition occurs putting
7 the student at risk of harm;

8 (ii) the student's behavior no longer
9 poses an immediate danger of serious bodily
10 injury to the student or others; or

11 (iii) less restrictive interventions
12 would be effective in stopping such immediate
13 danger of serious bodily injury.

14 (D) QUALIFICATIONS OF INDIVIDUALS ENGAGING IN PHYSICAL RESTRAINT.—School personnel imposing physical restraint in accordance
15
16
17 with this subsection shall—

18 (i) be trained and certified by a State-
19 approved crisis intervention training program,
20 except in the case of rare and clearly
21 unavoidable emergency circumstances when
22 school personnel trained and certified are
23 not immediately available due to the unforeseeable nature of the emergency circumstance;
24
25

1 (ii) engage in continuous face-to-face
2 monitoring of the student; and

3 (iii) be trained in State and school
4 policies and procedures regarding restraint
5 and seclusion.

6 (E) PROHIBITION ON USE OF PHYSICAL
7 RESTRAINT AS PLANNED INTERVENTION.—The
8 use of physical restraints as a planned interven-
9 tion shall not be written into a student’s edu-
10 cation plan, individual safety plan, plan devel-
11 oped pursuant to section 504 of the Rehabilita-
12 tion Act of 1973 (29 U.S.C. 794), individual-
13 ized education program or individualized family
14 service plan (as defined in section 602 of the
15 Individuals with Disabilities Education Act (20
16 U.S.C. 1401)), or any other planning document
17 for an individual student.

18 (3) OTHER POLICIES.—

19 (A) IN GENERAL.—The State or local edu-
20 cational agency, and each school and edu-
21 cational program served by the State or local
22 educational agency shall—

23 (i) establish policies and procedures
24 that ensure school personnel and parents,
25 including private school personnel and par-

1 ents, are aware of the State, local edu-
2 cational agency, and school's policies and
3 procedures regarding seclusion and re-
4 straint;

5 (ii) establish policies and procedures
6 to keep all students, including students
7 with the most complex and intensive be-
8 havioral needs, and school personnel safe;

9 (iii) establish policies and procedures
10 for planning for the appropriate use of re-
11 straint in crisis situations in accordance
12 with this Act by a team of professionals
13 trained in accordance with a State-ap-
14 proved crisis intervention training pro-
15 gram; and

16 (iv) establish policies and procedures
17 to be followed after each incident involving
18 the imposition of physical restraint upon a
19 student, including—

20 (I) procedures to provide to the
21 parent of the student, with respect to
22 each such incident—

23 (aa) a verbal or electronic
24 communication on the same day
25 as each such incident; and

1 (bb) within 24 hours of each
2 such incident, written notifica-
3 tion; and

4 (II) after the imposition of phys-
5 ical restraint upon a student, proce-
6 dures to ensure that all school per-
7 sonnel in the proximity of the student
8 immediately before and during the
9 time of the restraint, the parent, the
10 student, appropriate supervisory and
11 administrative staff, and appropriate
12 IEP team members, participate in a
13 debriefing session.

14 (B) DEBRIEFING SESSION.—

15 (i) IN GENERAL.—The debriefing ses-
16 sion described in subparagraph (A)(iv)(II)
17 shall occur as soon as practicable, but not
18 later than 5 school days following the im-
19 position of physical restraint unless it is
20 delayed by written mutual agreement of
21 the parent and school. Parents shall retain
22 their full legal rights for children under the
23 age of majority concerning participation in
24 the debriefing or other matters.

1 (ii) CONTENT OF SESSION.—The de-
2 briefing session described in subparagraph
3 (A)(iv)(II) shall include—

4 (I) identification of antecedents
5 to the physical restraint;

6 (II) consideration of relevant in-
7 formation in the student's records,
8 and such information from teachers,
9 other professionals, the parent, and
10 student;

11 (III) planning to prevent and re-
12 duce reoccurrence of the use of phys-
13 ical restraint, including consideration
14 of the results of any functional behav-
15 ioral assessments, whether positive be-
16 havior plans were implemented with
17 fidelity, recommendations of appro-
18 priate positive behavioral interventions
19 and supports to assist personnel re-
20 sponsible for the student's educational
21 plan, the individualized education pro-
22 gram for the student, if applicable,
23 and plans providing for reasonable ac-
24 commodations under section 504 of

1 the Rehabilitation Act of 1973 (29
2 U.S.C. 794);

3 (IV) a plan to have a functional
4 behavioral assessment conducted, re-
5 viewed, or revised by qualified profes-
6 sionals, the parent, and the student;
7 and

8 (V) for any student not identified
9 as eligible to receive accommodations
10 under section 504 of the Rehabilita-
11 tion Act of 1973 (29 U.S.C. 794) or
12 services under the Individuals with
13 Disabilities Education Act (20 U.S.C.
14 1400 et seq.), evidence of such a re-
15 ferral or documentation of the basis
16 for declining to refer the student.

17 (iii) COMMUNICATION BY THE STU-
18 DENT.—When a student attends a debrief-
19 ing session described in subparagraph
20 (A)(iv)(II), information communicated by
21 the student may not be used against the
22 student in any disciplinary, criminal, or
23 civil investigation or proceeding.

24 (4) NOTIFICATION IN WRITING ON DEATH OR
25 BODILY INJURY.—In a case in which serious bodily

1 injury or death of a student occurs in conjunction
 2 with the use of physical restraint or any intervention
 3 used to control behavior, there are procedures to no-
 4 tify, in writing, within 24 hours after such injury or
 5 death occurs—

6 (A) the State educational agency and local
 7 educational agency;

8 (B) local law enforcement; and

9 (C) a protection and advocacy system, in
 10 the case of a student who is eligible for services
 11 from the protection and advocacy system.

12 (5) PROHIBITION AGAINST RETALIATION.—The
 13 State or local educational agency, each school and
 14 educational program served by the State or local
 15 educational agency, and school personnel of such
 16 school or program shall not retaliate against any
 17 person for having—

18 (A) reported a violation of this section or
 19 Federal or State regulations or policies promul-
 20 gated to carry out this section; or

21 (B) provided information regarding a viola-
 22 tion of this section or Federal or State regula-
 23 tions or policies promulgated to carry out this
 24 section.

1 **SEC. 5. INTERACTION.**

2 (a) **RULE OF CONSTRUCTION.**—Nothing in this Act
 3 shall be construed to restrict or limit, or allow the Sec-
 4 retary to restrict or limit, any other rights or remedies
 5 otherwise available to students or parents under Federal
 6 or State law (including regulations) or to restrict or limit
 7 stronger restrictions on the use of restraint, seclusion, or
 8 aversives in Federal or State law (including regulations)
 9 or in State policies.

10 (b) **DENIAL OF A FREE APPROPRIATE PUBLIC EDU-**
 11 **CATION.**—Failure to meet the minimum standards of this
 12 Act as applied to an individual child eligible for accom-
 13 modations developed pursuant to section 504 of the Reha-
 14 bilitation Act of 1973 (29 U.S.C. 794) or for education
 15 or related services under the Individuals with Disabilities
 16 Education Act (20 U.S.C. 1400 et seq.) shall constitute
 17 a denial of a free appropriate public education.

18 **SEC. 6. REPORT REQUIREMENTS.**

19 (a) **IN GENERAL.**—Each State educational agency
 20 shall (in compliance with the requirements of section 444
 21 of the General Education Provisions Act (commonly
 22 known as the “Family Educational Rights and Privacy
 23 Act of 1974”) (20 U.S.C. 1232g)) prepare and submit to
 24 the Secretary, and make available to the public, a report
 25 with respect to each local educational agency, and each
 26 school not under the jurisdiction of a local educational

1 agency, located in the same State as such State edu-
 2 cational agency that includes the following information:

3 (1) The total number of incidents in which
 4 physical restraint was imposed upon a student in the
 5 preceding full academic year.

6 (2) The information described in paragraph (1)
 7 shall be disaggregated—

8 (A) by the total number of incidents in
 9 which physical restraint was imposed upon a
 10 student—

11 (i) that resulted in injury to students
 12 or school personnel, or both;

13 (ii) that resulted in death; and

14 (iii) in which the school personnel im-
 15 posing physical restraint were not trained
 16 and certified as described in section
 17 4(2)(D)(i); and

18 (B) by the demographic characteristics of
 19 all students upon whom physical restraint was
 20 imposed, including—

21 (i) the subcategories identified in sec-
 22 tion 1111(h)(1)(C)(i) of the Elementary
 23 and Secondary Education Act of 1965 (20
 24 U.S.C. 6311(h)(1)(C)(i));

25 (ii) age; and

1 (iii) disability category.

2 (b) UNDUPLICATED COUNT; EXCEPTION.—The
3 disaggregation required under subsection (a) shall—

4 (1) be carried out in a manner to ensure an
5 unduplicated count of the total number of incidents
6 in the preceding full academic year in which physical
7 restraint was imposed upon a student; and

8 (2) not be required in a case in which the num-
9 ber of students in a category would reveal personally
10 identifiable information about an individual student.

11 **SEC. 7. GRANT AUTHORITY.**

12 (a) IN GENERAL.—From the amount appropriated
13 under section 9, the Secretary may award grants to State
14 educational agencies to assist in—

15 (1) establishing, implementing, and enforcing
16 the policies and procedures to meet the minimum
17 standards described in this Act;

18 (2) improving State and local capacity to collect
19 and analyze data related to physical restraint; and

20 (3) improving school climate and culture by im-
21 plementing school-wide positive behavioral interven-
22 tions and supports.

23 (b) DURATION OF GRANT.—A grant under this sec-
24 tion shall be awarded to a State educational agency for
25 a 3-year period.

1 (c) APPLICATION.—Each State educational agency
2 desiring a grant under this section shall submit an appli-
3 cation to the Secretary at such time, in such manner, and
4 accompanied by such information as the Secretary may
5 require, including information on how the State edu-
6 cational agency will target resources to schools and local
7 educational agencies in need of assistance related to pre-
8 venting and reducing physical restraint.

9 (d) AUTHORITY TO MAKE SUBGRANTS.—

10 (1) IN GENERAL.—A State educational agency
11 receiving a grant under this section may use such
12 grant funds to award subgrants, on a competitive
13 basis, to local educational agencies.

14 (2) APPLICATION.—A local educational agency
15 desiring to receive a subgrant under this section
16 shall submit an application to the applicable State
17 educational agency at such time, in such manner,
18 and containing such information as the State edu-
19 cational agency may require.

20 (e) PRIVATE SCHOOL PARTICIPATION.—

21 (1) IN GENERAL.—A State educational agency
22 receiving grant funds under this section shall, after
23 timely and meaningful consultation with appropriate
24 private school officials, ensure that private school

1 personnel can participate, on an equitable basis, in
2 activities supported by grant or subgrant funds.

3 (2) PUBLIC CONTROL OF FUNDS.—The control
4 of funds provided under this section, and title to ma-
5 terials, equipment, and property with such funds,
6 shall be in a public agency and a public agency shall
7 administer such funds, materials, equipment, and
8 property.

9 (f) REQUIRED ACTIVITIES.—A State educational
10 agency receiving a grant, or a local educational agency re-
11 ceiving a subgrant, under this section shall use such grant
12 or subgrant funds to carry out the following:

13 (1) Researching, developing, implementing, and
14 evaluating evidence-based strategies, policies, and
15 procedures to reduce and prevent physical restraint
16 in schools, consistent with the minimum standards
17 described in this Act.

18 (2) Providing professional development, train-
19 ing, and certification for school personnel to meet
20 such standards.

21 (g) ADDITIONAL AUTHORIZED ACTIVITIES.—In addi-
22 tion to the required activities described in subsection (f),
23 a State educational agency receiving a grant, or a local
24 educational agency receiving a subgrant, under this sec-

tion may use such grant or subgrant funds for 1 or more
of the following:

(1) Developing and implementing a high-quality
professional development and training program to
implement evidence-based systematic approaches to
school-wide positive behavioral interventions and
supports, including improving coaching, facilitation,
and training capacity for administrators, teachers,
specialized instructional support personnel, and
other staff.

(2) Providing technical assistance to develop
and implement evidence-based systematic approaches
to school-wide positive behavioral interventions and
supports, including technical assistance for data-
driven decisionmaking related to positive behavioral
interventions and supports in the classroom.

(3) Researching, evaluating, and disseminating
high-quality evidence-based programs and activities
that implement school-wide positive behavioral inter-
ventions and supports with fidelity.

(4) Supporting other local positive behavioral
interventions and supports implementation activities
consistent with this subsection.

1 (h) EVALUATION AND REPORT.—Each State edu-
2 cational agency receiving a grant under this section shall,
3 at the end of the 3-year grant period for such grant—

4 (1) evaluate the State’s progress toward the
5 prevention and reduction of physical restraint in the
6 schools located in the State, consistent with the min-
7 imum standards; and

8 (2) submit to the Secretary a report on such
9 progress.

10 **SEC. 8. ENFORCEMENT.**

11 (a) USE OF REMEDIES.—If a State educational agen-
12 cy fails to comply with the requirements under this Act,
13 the Secretary shall—

14 (1) withhold, in whole or in part, further pay-
15 ments under an applicable program in accordance
16 with section 455 of the General Education Provi-
17 sions Act (20 U.S.C. 1234d);

18 (2) require a State or local educational agency
19 to submit, and implement, within 1 year of such fail-
20 ure to comply, a corrective plan of action, which may
21 include redirection of funds received under an appli-
22 cable program;

23 (3) issue a complaint to compel compliance of
24 the State or local educational agency through a
25 cease and desist order, in the same manner the Sec-

1 retary is authorized to take such action under sec-
2 tion 456 of the General Education Provisions Act
3 (20 U.S.C. 1234e); or

4 (4) refer the State to the Department of Jus-
5 tice or Department of Education Office of Civil
6 Rights for an investigation.

7 (b) CESSATION OF WITHHOLDING OF FUNDS.—
8 Whenever the Secretary determines (whether by certifi-
9 cation or other appropriate evidence) that a State or local
10 educational agency that is subject to the withholding of
11 payments under subsection (a)(1) has cured the failure
12 providing the basis for the withholding of payments, the
13 Secretary shall cease the withholding of payments with re-
14 spect to the State educational agency under such sub-
15 section.

16 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
18 as may be necessary to carry out this Act for fiscal year
19 2012 and each of the 4 succeeding fiscal years.

○

December 16, 2011 Unsubscribe Update My Profile

FOR IMMEDIATE RELEASE

Contact: Justine Sessions / Kate Cyrul

December 16, 2011 (202) 224-3254

Harkin Introduces Bill to Protect Students from Seclusion and Restraint

WASHINGTON—Today, Senator Tom Harkin (D-IA), Chairman of the Senate Health, Education, Labor and Pensions Committee, introduced the Keeping All Students Safe Act, a bill to protect students from ineffective and dangerous seclusion and restraint practices in schools.

“Every child should be educated in a supportive, caring, stimulating environment in which they are treated as an individual and provided with the tools they need to succeed,” Harkin said. “They should never be subjected to abusive or violent disciplinary strategies or left alone and unsupervised. This bill will set long-overdue standards to protect children from physical and psychological harm and ensure a safe learning environment for teachers and students alike.”

According to a 2009 Government Accountability Office (GAO) study, restraints and seclusion have resulted in physical injury and psychological trauma to thousands of students in public and private schools throughout the country, many of them students with disabilities. Estimates from the GAO are that over 200 students have died due to seclusion and restraints being used in schools over the past five years. This bill would prohibit the use of seclusion in locked and unattended rooms or enclosures, prohibit the use of mechanical and chemical restraints and physical restraints that restrict breathing, and prohibit aversive behavioral interventions that compromise health and safety. The bill would also:

- Prohibit the use of physical restraints except for emergency situations,
- Prohibit the use of physical restraints that inhibit a student’s primary means of communication
- Prohibit the use of seclusions and/or restraints in a student’s Individual Education Plan or any other behavioral plan
- Call for states to promote preventative programming to reduce the use of restraints
- Call for states to collect data on the occurrence of seclusions and restraints
- Call for schools to conduct a debriefing with parents and staff after a restraint is used and plan for positive behavioral interventions that will prevent the use of restraints with the student in the future.
- Establish a state grant program to enhance the State’s ability to promote, within its LEAs, preventative programming and training for school personnel

Organizations supporting the Keeping All Students Safe Act include Easter Seals, United Cerebral Palsy, The Arc of the United States, the National Disabilities Rights Network and the Council of Parent and Attorney Advocates.

###

PLEASE LET US KNOW IF YOUR ORGANIZATION CAN SIGN ONTO THE LETTER BELOW.

Dear Chairman Harkin:

The undersigned organizations thank you for introducing the Keeping All Students Safe Act and your unwavering commitment to the safety and welfare of our nation's children. The undersigned organizations support this legislation and pledge to work with you for its enactment. In 2009, the Government Accountability Office documented hundreds of children subjected to restraint and seclusion in school, resulting in death, injury, and psychological trauma. All too often, the victims have been children with disabilities.

The Keeping All Students Safe Act will establish needed national minimum standards to protect all school children nationwide. The bill will strengthen protections in every state.

The bill would ensure the safety of all students and school personnel and promote positive school culture and climate. The bill would promote the development of effective intervention and prevention practices, emphasize de-escalation, conflict management, and evidence-based practices shown to be effective in preventing physical restraint; and mandate the use of data-based decision-making and evidence-based positive behavioral interventions and supports.

The bill would ban seclusion and confinement of children in locked rooms or spaces from which they cannot exit. Students have died or been injured in seclusion. It will restrict physical restraint to emergencies posing a threat of serious bodily injury to self or other. Schools will no longer be able to use this dangerous technique to punish children, coerce compliance, for behavioral infractions, or as a substitute for positive behavioral support or proper educational programming. It may not be used when less restrictive measures would be effective and must end when the emergency ends. No longer will children be kept in restraint for hours. And if light force would stop the threat, staff could not use maximum force that would harm or injure the child. The bill will ban restraints that are life threatening (including those that interfere with breathing), mechanical and chemical restraints, aversives that threaten health or safety, and restraints that interfere with the ability to communicate or which would harm a child.

The bill requires that those using restraint be trained in evidence-based techniques and renew their training certifications on a regular basis, establishing a strong standard nationwide. Far too many children have been injured by untrained personnel. The bill requires that parents be notified within 24 hours that their child has been restrained. Parents must know to watch for concussions and other injuries, as well as trauma. Staff and family will debrief after restraint is used, to prevent its use in the future. States must collect data on the use of restraint and seclusion, make it available to members of the public, and use the data to minimize further use of these techniques. Such sunshine is vital. Teachers, staff, and parents who report violations of the law would be protected from retaliation. The bill will prohibit including restraint as a planned intervention in Individual Educational Programs or other individualized planning documents.

Existing laws alone have not protected students against such abuse and injury, though many do offer important protections. By creating a national floor of protection, your bill ensures that

children will be protected in every state. We thank you very much for your strong work to protect schoolchildren from abusive interventions.

Sincerely,

[INSERT LIST OF SIGN-ONS]

COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Assembly Bill (AB) 254: Developmental services, Employment First Policy

BILL SUMMARY: This bill would require the regional center, when developing an individual program plan (IPP) for a transition age youth or working age adult, to be guided by the Employment First Policy. AB 254 bill also, beginning when a consumer is 14 years of age, would require the planning team to discuss school-to-work opportunities during IPP meetings and to inform the consumer, parents, legal guardian, or conservator that the regional center is available, upon request, to participate in the consumer's individualized education program (IEP) meetings to discuss transition planning. The bill would also require the planning team, as part of the IPP process for working age adults, to address integrated employment opportunities, while respecting the consumer's right to make choices.

BACKGROUND: Last session, Chapter 231, Statutes of 2009 (AB 287) was enacted requiring the Council to create an Employment First Committee (EFC). The EFC was required to submit a report to the Legislature and Governor that identified an employment first policy and included recommendations to enhance and increase integrated employment opportunities for people with developmental disabilities. This report was submitted to the Governor and Legislature in August 2011.

The Employment First policy, as articulated in the report, is: "It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities." In order to clarify that the Employment First Policy is in no way intended to diminish any part of the IPP planning process, the following appears immediately after the policy as the first key principle underpinning the policy:

"The individual program plan (IPP) and the provision of services and supports is centered on the individual and the family. The IPP and the provision of services take into account the needs and preferences of the individual and family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments."

ANALYSIS/DISCUSSION: In October 2011, Eric Gelber, Chief Consultant, Assembly Human Services Committee requested specific feedback from the Council regarding

amendments for AB 254. The Legislative and Public Policy Committee (LPPC) provided such feedback at that time.

It is understood that there are some who erroneously believe that AB 254 will remove a portion of the Lanterman Act that provides for the IPP process and the ability of one's right to make choices about one's own life. It is also understood why one may be left with this impression based upon the way in which changes have been made to this bill. However, this bill makes no such changes to the Lanterman Act and the Employment First policy is designed to further the intent of the Act, be consistent with rights established under the Act, and maintain one's right to make choices in respect to the development and implementation of IPPs.

COUNCIL STRATEGIC PLAN OBJECTIVE: The State of California will adopt an Employment First policy which reflects inclusive and gainful employment as the preferred outcome for working age individuals with developmental disabilities.

PRIOR COUNCIL ACTIVITY: The Council supported AB 287 (2009) and submitted the first annual Employment First report to the Governor and Legislature in August 2011. In December 2011, the Executive Committee co-sponsored AB 254 because a hearing is scheduled for this bill on January 10, 2012 – which occurs before the next Council meeting.

RECOMMENDATION: Information only

ATTACHMENT(S): AB 254, Fact Sheet, position letters, and Council Alert

PREPARED: Christofer Arroyo January 4, 2012

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 254

Introduced by Assembly Member Beall

February 3, 2011

An act to amend Section Sections 4646.5 and 4868 of, and to add Section 4869 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 254, as amended, Beall. Developmental services: Employment First Policy.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

Existing law requires the State Council on Developmental Disabilities to, among other responsibilities, form a standing Employment First Committee to identify strategies and recommend legislative, regulatory, and policy changes to increase integrated employment, as defined, for persons with developmental disabilities, as specified.

This bill would revise the definition of integrated employment to include supported employment, microenterprises, and self-employment, as defined.

This bill would require the regional center, when developing an individual program plan for a transition age youth or working age adult, to be guided by the Employment First Policy. The bill also, beginning

when a consumer is 14 years of age, would require the planning team to discuss school-to-work opportunities during individual program plan meetings and to inform the consumer, parent, legal guardian, or conservator that the regional center is available, upon request, to participate in the consumer's individualized education plan meetings to discuss and coordinate transition planning with the school district. The bill would require the planning team, as part of the individual program plan process for working age adults, to address integrated employment opportunities, while respecting the consumer's right to choose.

The bill would also require regional centers to ensure that consumers, beginning at 14 years of age, and, where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment.

The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy, including data on the numbers of consumers engaged in integrated competitive employment.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4646.5 of the Welfare and Institutions Code is amended to read:

4646.5. (a) The planning process for the individual program plan described in Section 4646 shall include all of the following:

(1) Gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities. For children with developmental disabilities, this process should include a review of the strengths, preferences, and needs of the child and the family unit as a whole. Assessments shall be conducted by qualified individuals and performed in natural environments whenever possible. Information shall be taken from the consumer, his or her parents and other

family members, his or her friends, advocates, providers of services and supports, and other agencies. The assessment process shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family.

(2) A statement of goals, based on the needs, preferences, and life choices of the individual with developmental disabilities, and a statement of specific, time-limited objectives for implementing the person's goals and addressing his or her needs. These objectives shall be stated in terms that allow measurement of progress or monitoring of service delivery. These goals and objectives should maximize opportunities for the consumer to develop relationships, be part of community life in the areas of community participation, housing, work, school, and leisure, increase control over his or her life, acquire increasingly positive roles in community life, and develop competencies to help accomplish these goals.

(3) When developing individual program plans for children, regional centers shall be guided by the principles, process, and services and support parameters set forth in Section 4685.

(4) When developing an individual program plan for a transition age youth or working age adult, the regional center shall be guided by the Employment First Policy described in Chapter 14 (commencing with Section 4868). Beginning when a consumer is 14 years of age, the planning team shall discuss school-to-work opportunities during individual program plan meetings, and the regional center representative shall inform the consumer, parent, legal guardian, or conservator that the regional center is available, upon request, to participate in the consumer's individualized education plan meetings to discuss and coordinate transition planning with the school district.

(4)

(5) A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives, and identification of the provider or providers of service responsible for attaining each objective, including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The individual program plan shall specify the approximate scheduled start date for services and supports and shall contain timelines for

1 actions necessary to begin services and supports, including generic
2 services.

3 (5)

4 (6) When agreed to by the consumer, the parents or legally
5 appointed guardian of a minor consumer, or the legally appointed
6 conservator of an adult consumer or the authorized representative,
7 including those appointed pursuant to subdivision (d) of Section
8 4548 and subdivision (e) of Section 4705, a review of the general
9 health status of the adult or child including a medical, dental, and
10 mental health needs shall be conducted. This review shall include
11 a discussion of current medications, any observed side effects, and
12 the date of last review of the medication. Service providers shall
13 cooperate with the planning team to provide any information
14 necessary to complete the health status review. If any concerns
15 are noted during the review, referrals shall be made to regional
16 center clinicians or to the consumer's physician, as appropriate.
17 Documentation of health status and referrals shall be made in the
18 consumer's record by the service coordinator.

19 (6)

20 (7) (A) The development of a transportation access plan for a
21 consumer when all of the following conditions are met:

22 (i) The regional center is purchasing private, specialized
23 transportation services or services from a residential, day, or other
24 provider, excluding vouchers service providers, to transport the
25 consumer to and from day or work services.

26 (ii) The planning team has determined that a consumer's
27 community integration and participation could be safe and
28 enhanced through the use of public transportation services.

29 (iii) The planning team has determined that generic
30 transportation services are available and accessible.

31 (B) To maximize independence and community integration and
32 participation, the transportation access plan shall identify the
33 services and supports necessary to assist the consumer in accessing
34 public transportation and shall comply with Section 4648.35. These
35 services and supports may include, but are not limited to, mobility
36 training services and the use of transportation aides. Regional
37 centers are encouraged to coordinate with local public
38 transportation agencies.

39 (7)

40 87

1 (8) A schedule of regular periodic review and reevaluation to
2 ascertain that planned services have been provided, that objectives
3 have been fulfilled within the times specified, and that consumers
4 and families are satisfied with the individual program plan and its
5 implementation.

6 (b) For all active cases, individual program plans shall be
7 reviewed and modified by the planning team, through the process
8 described in Section 4646, as necessary, in response to the person's
9 achievement or changing needs, and no less often than once every
10 three years. If the consumer or, where appropriate, the consumer's
11 parents, legal guardian, or conservator requests an individual
12 program plan review, the individual program shall be reviewed
13 within 30 days after the request is submitted.

14 (c) (1) The department, with the participation of representatives
15 of a statewide consumer organization, the Association of Regional
16 Center Agencies, an organized labor organization representing
17 service coordination staff, and the Organization of Area Boards
18 shall prepare training material and a standard format and
19 instructions for the preparation of individual program plans, which
20 embodies an approach centered on the person and family.

21 (2) Each regional center shall use the training materials and
22 formal prepared by the department pursuant to paragraph (1).

23 (3) The department shall biennially review a random sample of
24 individual program plans at each regional center to assure that
25 these plans are being developed and modified in compliance with
26 Section 4646 and this section.

27 SECTION 1. Section 4646.5 of the Welfare and Institutions
28 Code is amended to read:

29 4646.5. (a) The planning process for the individual program
30 plan described in Section 4646 shall include all of the following:

31 (1) Gathering information and conducting assessments to
32 determine the life goals, capabilities and strengths, preferences,
33 barriers, and concerns or problems of the person with
34 developmental disabilities. For children with developmental
35 disabilities, this process should include a review of the strengths,
36 preferences, and needs of the child and the family unit as a whole.
37 Assessments shall be conducted by qualified individuals and
38 performed in natural environments whenever possible. Information
39 shall be taken from the consumer, his or her parents and other
40 family members, his or her friends, advocates, providers of services

1 and supports, and other agencies. The assessment process shall
 2 reflect awareness of, and sensitivity to, the lifestyle and cultural
 3 background of the consumer and the family.

4 (2) A statement of goals, based on the needs, preferences, and
 5 life choices of the individual with developmental disabilities, and
 6 a statement of specific, time-limited objectives for implementing
 7 the person's goals and addressing his or her needs. These objectives
 8 shall be stated in terms that allow measurement of progress or
 9 monitoring of service delivery. These goals and objectives should
 10 maximize opportunities for the consumer to develop relationships;
 11 be part of community life in the areas of community participation;
 12 housing, work, school, and leisure; increase control over his or her
 13 life; acquire increasingly positive roles in community life; and
 14 develop competencies to help accomplish these goals.

15 (3) When developing individual program plans for children,
 16 regional centers shall be guided by the principles, process, and
 17 services and support parameters set forth in Section 4685.

18 (4) When developing an individual program plan for a transition
 19 age youth or working age adult, the regional center shall be guided
 20 by the Employment First Policy described in Chapter 14
 21 (commencing with Section 4868). Beginning when a consumer is
 22 14 years of age, the planning team shall discuss school-to-work
 23 opportunities during individual program plan meetings, and the
 24 regional center representative shall inform the consumer, parent,
 25 legal guardian, or conservator that the regional center is available;
 26 upon request, to participate in the consumer's individualized
 27 education plan meetings to discuss transition planning.

28 (5) A schedule of the type and amount of services and supports
 29 to be purchased by the regional center or obtained from generic
 30 agencies or other resources in order to achieve the individual
 31 program plan goals and objectives, and identification of the
 32 provider or providers of service responsible for attaining each
 33 objective, including, but not limited to, vendors, contracted
 34 providers, generic service agencies, and natural supports. The plan
 35 shall specify the approximate scheduled start date for services and
 36 supports and shall contain timelines for actions necessary to begin
 37 services and supports, including generic services.

38 (6) When agreed to by the consumer, the parents or legally
 39 appointed guardian of a minor consumer, or the legally appointed
 40 conservator of an adult consumer or the authorized representative;

1 including those appointed pursuant to subdivision (d) of Section
 2 4548 and subdivision (c) of Section 4705, a review of the general
 3 health status of the adult or child including a medical, dental, and
 4 mental health needs shall be conducted. This review shall include
 5 a discussion of current medications, any observed side effects, and
 6 the date of last review of the medication. Service providers shall
 7 cooperate with the planning team to provide any information
 8 necessary to complete the health status review. If any concerns
 9 are noted during the review, referrals shall be made to regional
 10 center clinicians or to the consumer's physician, as appropriate.
 11 Documentation of health status and referrals shall be made in the
 12 consumer's record by the service coordinator.

13 (7) A schedule of regular periodic review and reevaluation to
 14 ascertain that planned services have been provided, that objectives
 15 have been fulfilled within the times specified, and that consumers
 16 and families are satisfied with the individual program plan and its
 17 implementation.

18 (b) For all active cases, individual program plans shall be
 19 reviewed and modified by the planning team, through the process
 20 described in Section 4646, as necessary, in response to the person's
 21 achievement or changing needs, and no less often than once every
 22 three years. If the consumer or, where appropriate, the consumer's
 23 parents, legal guardian, or conservator requests an individual
 24 program plan review, the individual program shall be reviewed
 25 within 30 days after the request is submitted.

26 (c) (1) The department, with the participation of representatives
 27 of a statewide consumer organization, the Association of Regional
 28 Center Agencies, an organized labor organization representing
 29 service coordination staff, and the Organization of Area Boards
 30 shall prepare training material and a standard format and
 31 instructions for the preparation of individual program plans, which
 32 embodies an approach centered on the person and family.

33 (2) Each regional center shall use the training materials and
 34 format prepared by the department pursuant to paragraph (1).

35 (3) The department shall biennially review a random sample of
 36 individual program plans at each regional center to assure that
 37 these plans are being developed and modified in compliance with
 38 Section 4646 and this section.

39 SEC. 2. Section 4868 of the Welfare and Institutions Code is
 40 amended to read:

1 4868. (a) The State Council on Developmental Disabilities
2 shall form a standing Employment First Committee consisting of
3 the following members:

4 (1) One designee of each of the members of the state council
5 specified in subparagraphs (B), (C), (D), (F), and (H) of paragraph
6 (2) of subdivision (b) of Section 4521.

7 (2) A member of the consumer advisory committee of the state
8 council.

9 (b) In carrying out the requirements of this section, the
10 committee shall meet and consult, as appropriate, with other state
11 and local agencies and organizations, including, but not limited
12 to, the Employment Development Department, the Association of
13 Regional Center Agencies, one or more supported employment
14 provider organizations, an organized labor organization
15 representing service coordination staff, and one or more consumer
16 family member organizations.

17 (c) The responsibilities of the committee shall include, but need
18 not be limited to, all of the following:

19 (1) Identifying the respective roles and responsibilities of state
20 and local agencies in enhancing integrated and gainful employment
21 opportunities for people with developmental disabilities.

22 (2) Identifying strategies, best practices, and incentives for
23 increasing integrated employment and gainful employment
24 opportunities for people with developmental disabilities, including,
25 but not limited to, ways to improve the transition planning process
26 for students 14 years of age or older, and to develop partnerships
27 with, and increase participation by, public and private employers
28 and job developers.

29 (3) Identifying existing sources of employment data and
30 recommending goals for, and approaches to measuring progress
31 in, increasing integrated employment and gainful employment of
32 people with developmental disabilities.

33 (4) Recommending legislative, regulatory, and policy changes
34 for increasing the number of individuals with developmental
35 disabilities in integrated employment, ~~self-employment, and~~
36 ~~microenterprises, and who earn wages at or above minimum wage,~~
37 including, but not limited to, recommendations for improving
38 transition planning and services for students with developmental
39 disabilities who are 14 years of age or older. This shall include,
40 ~~but~~ shall not be limited to, the development of ~~an Employment~~

1 First Policy, a policy with the intended outcome of which is a
2 significant increase in significantly increasing the number of
3 individuals with developmental disabilities who engage in
4 integrated employment, ~~self-employment, and microenterprises,~~
5 and in the number of individuals who earn wages at or above
6 minimum wage. This proposed policy shall be in furtherance of
7 the intent of this division that services and supports be available
8 to enable persons with developmental disabilities to approximate
9 the pattern of everyday living available to people without
10 disabilities of the same age and that support their integration into
11 the mainstream life of the community, and that those services and
12 supports result in more independent, productive, and normal lives
13 for the persons served. The proposed ~~Employment First Policy~~
14 ~~policy~~ shall not limit service and support options otherwise
15 available to consumers, or the rights of consumers, or, where
16 appropriate, parents, legal guardians, or conservators to make
17 choices in their own lives.

18 (d) For purposes of this chapter, ~~"integrated the following~~
19 ~~definitions shall apply:~~

20 (1) ~~"Competitive employment" means work in the competitive~~
21 ~~labor market that is performed on a full-time or part-time basis~~
22 ~~in an integrated setting and for which an individual is compensated~~
23 ~~at or above the minimum wage, but not less than the customary~~
24 ~~wage and level of benefits paid by the employer for the same or~~
25 ~~similar work performed by individuals who are not disabled.~~

26 (2) ~~"Integrated employment" shall have the same definition as~~
27 ~~means "integrated work" as defined in subdivision (o) of Section~~
28 ~~4851, microenterprises, self-employment, and supported~~
29 ~~employment, as defined in subdivision (n) of Section 4851.~~

30 (3) ~~"Microenterprises" means small businesses owned by~~
31 ~~individuals with developmental disabilities who have control and~~
32 ~~responsibility for decisionmaking and overseeing of the business,~~
33 ~~with accompanying business licenses, taxpayer identification~~
34 ~~numbers other than social security numbers, and separate business~~
35 ~~bank accounts. Microenterprises may be considered integrated~~
36 ~~competitive employment.~~

37 (4) ~~"Self-employment" means an employment setting in which~~
38 ~~an individual works in a chosen occupation, for profit or fee, in~~
39 ~~his or her own small business, with control and responsibility for~~
40 ~~decisions affecting the conduct of the business.~~

1 (e) The committee, by July 1, 2011, and annually thereafter,
 2 shall provide a report to the appropriate policy committees of the
 3 Legislature and to the Governor describing its work and
 4 recommendations. The report due by July 1, 2011, shall include
 5 the proposed Employment First Policy described in
 6 paragraph (4) of subdivision (c).
 7 SEC. 2.

8 SEC. 3. Section 4869 is added to the Welfare and Institutions
 9 Code, to read:

10 4869. In furtherance of the Employment First Policy established
 11 pursuant to this chapter, the individual program plan process for
 12 working-age adults shall address integrated employment
 13 opportunities, while respecting the consumer's right to choose.

14 4869. (a) (1) It is the policy of the state that integrated,
 15 competitive employment is the priority outcome for working age
 16 individuals with developmental disabilities. This policy shall be
 17 known as the Employment First Policy.

18 (2) This policy is in furtherance of the intent of this division to
 19 make services and supports available to enable persons with
 20 developmental disabilities to approximate the pattern of everyday
 21 living available to people without disabilities of the same age, to
 22 support the integration of persons with developmental disabilities
 23 into the mainstream life of the community, and to bring about more
 24 independent, productive, and normal lives for the persons served.

25 (3) Implementation of the policy shall be consistent with the
 26 rights established pursuant to this division, including the right of
 27 people with developmental disabilities to make informed choices
 28 with respect to individual program planning and implementation.

29 (4) Integrated competitive employment is intended to be the first
 30 option considered for working age individuals, but individuals
 31 may choose goals other than integrated competitive employment.

32 (b) Regional centers shall ensure that consumers, beginning at
 33 14 years of age, and, where appropriate, their parents, legal
 34 guardians, or conservators, are provided with information, in a
 35 language that the consumer and, as appropriate, the consumer's
 36 representative understand, about the Employment First Policy;
 37 about options for integrated competitive employment, and about
 38 services and supports, including postsecondary education,
 39 available to enable the consumer to transition from school to work,

1 and to achieve the outcomes of obtaining and maintaining
 2 integrated competitive employment.

3 (c) The department may request information from regional
 4 centers on current and planned activities related to the Employment
 5 First Policy, including data on the numbers of consumers engaged
 6 in integrated competitive employment.

7 (d) As appropriate, the department shall post information on
 8 its Internet Web site pertaining to the Employment First Policy,
 9 including technical assistance and training materials, best
 10 practices, resources, and regional center-specific data, by gender,
 11 race, and type and severity of disability, on progress made in
 12 increasing the number of consumers in integrated employment,
 13 and the number of consumers earning wages at or above minimum
 14 wage.

AB 254 (Beall) – FACT SHEET

Employment of People with Developmental Disabilities

BACKGROUND

In 2009, the Legislature enacted AB 287 (Beall), which established a standing "Employment First Committee" (EFC) within the State Council on Developmental Disabilities. AB 287's findings and declarations recognized that working age people with disabilities are among the most unemployed and underemployed members of society and that people with developmental disabilities are an important and largely untapped employment resource. AB 287 also recognized the importance of adequate and early transition planning so that students with developmental disabilities are able to move directly from school to work. The importance of collaboration and cooperation by many state and local agencies is also emphasized.

Under AB 287, the EFC is charged with:

- Developing a proposed state policy intended to result in a significant increase in the number of people with developmental disabilities in integrated employment, and the number of individuals who earn wages at minimum wage or above.
- Identifying respective roles and responsibilities of state and local agencies in enhancing integrated and gainful employment opportunities for people with developmental disabilities.
- Identifying strategies, best practices, and incentives, including ways to improve the transition planning process, and increase employer participation.
- Recommending goals for and approaches to measuring progress in increasing integrated and gainful employment of people with developmental disabilities.
- Recommending legislative, regulatory, and policy changes.

THIS BILL

AB 287 required that the EFC report on its activities and recommendations annually to the Legislature and the Governor. The first annual report, issued in July 2011, was required to and did include, among its proposals and recommendations, the proposed policy on integrated competitive employment.

This bill would adopt this proposed "Employment First Policy," stating that:

It is the policy of the state that integrated, competitive employment is the priority outcome for working age individuals with developmental disabilities.

The bill states that the policy is in furtherance of the intent of the Lanterman Act that people with developmental disabilities be integrated into the mainstream of community life and receive services and supports that enable them to live more independent, productive, and normal lives. The policy is also required to be consistent with rights established under the Act, including the right of people with developmental disabilities to make informed choices with respect to the development and implementation of their individual program plans.

SPONSORS

State Council on Developmental Disabilities
Service Employees International Union

STATUS

Amended January 4, 2012

Staff Contact: Eric Gelber (916) 319-2089



State Council on Developmental Disabilities

• SCDD • www.sodd.ca.gov • SCDD • council@sodd.ca.gov

1507 21st Street, Suite 210
Sacramento, CA 95811



STATE OF CALIFORNIA

Edmund G. Brown Jr.
Governor

(916) 322-8481
(916) 443-4957 fax
(916) 324-8420 TTY

December 21, 2011

Assemblymember Jim Beall, Jr., Chairperson
Members, Assembly Human Services Committee
State Capitol, Room 5016
Sacramento, CA 95814

Dear Assemblymember Beall and Committee Members:

The State Council on Developmental Disabilities (SCDD) is a State agency mandated to advocate, promote and implement policies and practices that achieve self-determination, independence, productivity and inclusion in all aspects of community life for Californians with developmental disabilities and their families. In implementing this mandate, the Council has adopted a support position on Assembly Bill (AB) 254 and offers to be a co-sponsor of the bill.

As amended, AB 254 will place the Council's proposed employment first policy into state law, thus guiding California to focus on integrated competitive employment for individuals with developmental disabilities. This focus is critical to enhancing the productivity, independence and inclusion of these individuals into society and reducing their dependence segregated services, thus reduce costs to the State of California. Employers across the nation have confirmed many benefits when employing individuals with disabilities, including better than average attendance and highly motivated and productive employees who often require few accommodations to be successful. This opportunity needs to be available to all individuals with developmental disabilities. The bill recognizes and retains an individual's right to make informed choices about their future and that there are a variety of paths to employment including post-secondary education and other vocational training options, however the outcome is real work side-by-side others with and without disabilities.

This bill is good for the economy, good for business and good for individuals with disabilities as they become productive members of society and give back as contributing/taxpaying members of the community. We urge the Committee's support of AB 254 when heard on January 10, 2012.

Sincerely,

LEROY SHIPP
Chairperson

cc: Eric Gelber, Chief Consultant, Assembly Human Services Committee

"The Council advocates, promotes & implements policies and practices that achieve self-determination, independence, productivity & inclusion in all aspects of community life for Californians with developmental disabilities and their families."



Area 4 Board

Office of the State Council on Developmental Disabilities

236 Georgia Street, Suite 201, Vallejo, CA 94590
(707) 648-4073 (707) 648-4100 fax ab4@scdd.ca.gov

December 21, 2011

Assemblymember Jim Beall, Jr., Chairperson
Members, Assembly Human Services Committee
P.O. Box 942849, Room 5016
State Capitol
Sacramento, CA 94249-0024

Dear Assemblymember Beall and Committee Members:

I am writing on behalf of the members of the Area 4 Developmental Disabilities Board to express the Board's strong support of AB 254.

Our members are adults who have a developmental disability as well as family and friends, and we want policy and services in California that result in integrated paid employment for individuals with developmental disabilities.

AB 254 will put the policy foundation in state law to achieve that result. It is consistent with the vision in the Lanterman Act of people with developmental disabilities being productive and included members of society and the community.

This bill is good for people with disabilities and good for the economy, please support it!

Sincerely,

A handwritten signature in cursive script that reads 'Laura Mefford'.

Laura Mefford
Chairperson, Area 4 Board

cc: Eric Gelber, Chief Consultant, Assembly Human Services Committee

Assemblymember Jim Beall
Chair, Assembly Human Services

January 3rd, 2012

RE: Support for AB 254

Dear Chairperson Beall,

East Bay Innovations is a non-profit organization that has provided supported employment services to people with developmental disabilities since 1999. On behalf of my organization, I wish to express our enthusiastic support for AB 254.

Over the period that we have provided supported employment services, we have seen a drastic decline in the number of supported employment service providers in our area, and we have seen our waiting list of people wanting employment opportunities grow every year. Through our work, we know that people with developmental disabilities can be employed successfully in a wide variety of occupations, can make a living wage, can be wonderful long term employees. We also feel that for people with developmental disabilities to truly be included and valued by our society, we have to see more people employed in visible and valued jobs.

While AB 254 is not an answer to the struggle to help more people with developmental disabilities to become employed, it is an important first step. AB 254 helps to set the tone and expectation that more people need to be employed in the community and make a reasonable wage. It will act as a foundation from we can start searching for solutions that will result in real change.

As a service provider of multiple services to people with developmental disabilities, we clearly see AB 254 as a bill that will push our service system forward to generate more quality employment opportunities for people with developmental disabilities. We do not see AB 254 as barrier to people with developmental disabilities directing their own future and services through the IPP process or somehow limiting the menu of service options currently available.

Again, our organization enthusiastically supports AB 254.

Sincerely,

Tom Heinz
East Bay Innovations



ASSOCIATION OF REGIONAL CENTER AGENCIES

915 L Street, Suite 1440 • Sacramento, CA 95814 • 916.446.7961 • Fax: 916.446.6912 • E-mail: arca@arcenet.org

January 4, 2012

Honorable Jim Beall
Assemblyman, 24th District
State Capitol, Room 5016
Sacramento, CA 95814

RE: ASSEMBLY BILL 254 (Beall) – Developmental services: Employment First Policy

ARCA position: *Support if amended*

Dear Assemblyman Beall:

On behalf of the Association of Regional Center Agencies (ARCA) representing the independent, nonprofit agencies providing advocacy, clinical assessment and coordination of services to California's 260,000 children and adults with developmental disabilities, we are writing to provide input regarding proposed amendments to Assembly Bill 254 (Beall).

ARCA and the regional centers appreciate your dedicated focus to improving the lives of people with developmental disabilities in our state, specifically your attention to the issue of integrated community employment. Over the past several legislative sessions, your office has been pivotal in authoring or providing strong support for employment initiatives. In 2008, ARCA along with the State Council on Developmental Disabilities and Disability Rights California co-sponsored Assembly Bill 287 establishing California's first Employment First Policy development committee. The report produced by this workgroup outlined the framework for Assembly Bill 254 and provided some general guidance to the community on integrating the notion of employment into the lives of people with developmental disabilities.

ARCA and the regional center have a long-standing position of strong support for not only community integration of people with developmental disabilities, but also to provide avenues and connections for competitive employment opportunities. Regional centers have worked alongside providers to foster relationships with large employers such as Target, Home Depot, Safeway, Marriot and many others. They have also worked closely with their communities to target small businesses to hire people served by the regional centers. The benefits of these associations have yielded numerous jobs for people with developmental disabilities and more in the pipeline. Former First Lady Maria Shriver's WE Include employment initiative, of which ARCA and the regional centers were a primary partner also helped provide a nexus to more partnership opportunities.

While ARCA and the regional centers are grateful for an opportunity to have a comprehensive Employment First policy, we respectfully ask you to consider some of the concerns facing regional centers at this time. Over the past decade, regional centers have been required year over year to provide more services with less funding. Regional centers recognize this reality exists across all sectors of public services, however the demand on regional centers to meet all of the mandates on limited resources has become unsustainable. As payers of last resort, regional centers share the responsibility of assisting people with developmental disabilities reach their full potential in the community. This shared role includes partnerships with public education, counties, and other entities to ensure people are receiving the necessary services and supports in the most least restrictive setting.

Over time as resources have dwindled for some of our partner agencies, regional centers have been placed in the precarious position of ensuring continuity of care and services without an adequate augmentation of staff or funding. With skyrocketing caseloads to maintain, service coordinators have little time or opportunity to cultivate relationships with parents, families and the people served and carefully identify the full scope of their needs. Coupled with the decreased levels of support from generic agencies, regional center service coordinators are being stretched to a breaking point.

In a thorough review of the proposed amended language in AB 254, the ARCA Employment Committee and Legislative Committee, both comprised of regional center directors, staff, parents and family members all agree that there are some tremendous responsibilities placed in the hands on already overburdened service coordinators and other regional center staff.

The amendments to AB 254 create an additional workload to regional center staff. We believe these functions are primarily the responsibility of the public school system as providers of a free and appropriate education for these school-age children. The enhanced role of regional centers in this bill seems to inadvertently overlook that at this point in a child/young adult's life, the school district and public education are the primary provider and coordinator of services with regional centers playing a supportive, secondary role. In addition to the scope of the regional center's role, the number of school districts with which we would be asked to coordinate with would be an untenable expectation. For example, at Alta California Regional Center which represents Sacramento County and ten surrounding counties in the region they work with over 80 separate school districts.

Beyond the lack of personnel resources, ARCA and the regional centers are also concerned about the provision requiring staff to provide information "in a language that the consumer and, as appropriate, the consumer's representative understand." This onerous fiscal requirement to develop materials and provide specific translations into certain dialects and languages is beyond the capacity of any regional center, let alone those whose catchment areas cover a diverse population speaking many languages.

An additional concern rests upon another amendment stating that the Department of Developmental Services may request information from regional centers on current and planned activities related to the Employment First Policy. Regional centers recognize the importance of ongoing data tracking to assist in measuring the success of this policy, however the collection of data points absent specific direction from the Department to be reportable at any given time is an additional workload on regional center staff.

We look forward to continue engaging with your office, the Assembly Human Services Committee and other developmental services stakeholder groups to further refine language around implementation of the Employment First Policy at regional centers and throughout our system. We hope that by working together to address the aforementioned issues that ARCA and the regional centers would be able to provide our support for AB 254 (Beall).

Regional centers remain firmly committed to increasing employment options and opportunities for people with developmental disabilities and appreciate your partnership in this endeavor.

Sincerely,



Robert J. Baldo
Executive Director

Cc: Eric Gelber, Assembly Human Services Committee
Mary Bellamy, Assembly Republican Office of Policy
Lisa Murawski, Assembly Appropriations Committee
Julie Souliere, Assembly Republican Fiscal Office
Terri Delgadillo, Department of Developmental Services
ARCA Board of Directors

Educate. Advocate.

Educating ourselves as parents and caregivers so we can better Advocate for our children with special needs.

January 4, 2012

Assemblymember Jim Beall, Chairperson Human Services Committee CA Assembly
State Capitol
Room 5016
Sacramento, CA 95814
916 319 2024
Fax 916 319 2124
Assemblymember.beall@asm.ca.gov

Assembly Human Services Committee Members:

Assemblymember Brian Jones
Assemblymember.jones@asm.ca.gov
Assemblymember Tom Ammiano
Assemblymember.ammiano@asm.ca.gov
Assemblymember Shannon Grove
Assemblymember.grove@asm.ca.gov
Assemblymember Isadore Hall
Assemblymember.hall@asm.ca.gov
Assemblymember Anthony Portantino
Assemblymember.portantino@asm.ca.gov
Eric Gelber Consultant
Eric.Gelber@asm.ca.gov

Re: AB 254 OPPOSE unless amended

Dear Distinguished Assemblymembers,

This past July, Educate. Advocate. wrote to the State Council on Developmental Disabilities (SCDD) to express our concern with the wording of their proposed "Employment First" policy for California.* The wording SCDD wants added to the Lanterman Act is:

"It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities."

At their meeting on July 27, the members of the SCDD demonstrated their determination to pass this policy, regardless of the concerns raised by community members. **Of the 80 pieces of written testimony they received, 75 were opposed to the language.** But the community input they received

<http://educateadvocateca.com>

PO BOX 1011

Guasti CA 91743

909 961 4115

educateadvocateca@educateadvocateca.com

Educate. Advocate.

Educating ourselves as parents and caregivers so we can better Advocate for our children with special needs.

made no difference. Despite the overwhelming majority of public input against their proposed language, they passed the statement as is, with no changes.

Educate. Advocate. opposes the current wording of the Employment First Policy. We believe any law that mandates the same priority outcome for everyone violates the essential promise of the Lanterman Act, which is that every person decides his or her own life goals through the Individual Program Planning (IPP) process. Educate. Advocate. wants alternative wording that keeps the intent to promote employment for people with developmental disabilities and protects each individual's IPP rights.

Supporters of the bill say it is consistent with the individual's right under the Lanterman Act to make informed choices, because of language in another part of the bill. They say the policy statement must be strong in order to move the system forward. But the key policy statement plainly says that one priority outcome is **the same for all**. A statement like this would fundamentally change the Lanterman Act.

Assembly bill AB 254 will have a legislative hearing on January 10, 2012 at 1 30 pm. We at Educate. Advocate. encourage Assemblymembers to amend the language of the bill to the following:

"It is the policy of the state that opportunities for integrated competitive employment are available for all people who choose to work."

We thank you for your time. Should you have questions for us, do not hesitate to contact Educate.Advocate at 909 961 4115 or through our website, <http://educateadvocateca.com>

Sincerely,



Kristie Renee' Sepulveda-Burchit
President Educate.Advocate.

<http://educateadvocateca.com>

PO BOX 1011

Guasti CA 91743

909 961 4115

educateadvocateca@educateadvocateca.com



January 5, 2012

1029 J Street, Suite 380
Sacramento, CA 95814
Phone: 916-441-5844
Fax: 916-441-2804
www.cal-dsa.org

The Honorable Jim Beall, Chair
Assembly Human Services Committee
State Capitol, Room 5016
Sacramento, CA 95814

RE: SUPPORT IF AMENDED AB 254 (Beall) – as amended January 4, 2012

Dear Assembly Member Beall:

The members of the California Disability Services Association (CDSA) support the lives of thousands of people with developmental disabilities throughout California in a wide variety of programs, including employment services. We respectfully **SUPPORT IF AMENDED AB 254 (Beall)**.

CDSA shares the vision of pursuing full employment for people with intellectual and developmental disabilities at wages that are at or above the minimum. We will work with all stakeholders to find pathways to this vision that provide integrated, effective, practical solutions to the many barriers that continue to limit employment opportunities for people with developmental disabilities.

But we are also strongly committed to the central principles of the Lanterman Developmental Services Act, California's landmark civil rights law that empowers people with disabilities; their family and their Inter-Disciplinary Team, not the State, to decide their own "priority outcomes".

AB 254 would empower the State to designate one result – integrated, competitive employment at minimum wage or higher - as the highest priority outcome for all consumers. Dictating a particular result as "the priority outcome" is inconsistent with a person-centered planning process, could limit the range of services from which people with disabilities may choose and thus could discourage meaningful choice.

It should be a priority of the State of California to remove barriers and provide resources for necessary supports so that all individuals with developmental disabilities of working age have opportunities for integrated, competitive employment consistent with their rights under the Lanterman Act. In plain Language – Opportunity is for all.

In addition, AB 254 would be greatly strengthened by making the critical link between the very limited resources the state has made available to encourage job development, placement and retention and achieving the goal of improving employment outcomes for people with disabilities.

We therefore respectfully request three simple, but very important amendments to AB 254 (See attached). Without these modifications, CDSA believes that AB 254 will not meaningfully encourage employment outcomes but could inadvertently, yet significantly damage the central component of the Lanterman Act – personal choice and the Individual Program Plan (IPP) - that must continue to determine the services and supports a person needs to pursue their own life goals and aspirations.

For all of these reasons, CDSA SUPPORTS IF AMENDED AB 254 (Beall).

If you have further questions regarding our position, please contact Dwight Hansen, Hansen & Associates, at (916) 798-0550.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher J. Rice". The signature is fluid and cursive, with the first name "Christopher" being more prominent than the last name "Rice".

Christopher J. Rice
Executive Director

C: Members, Assembly Human Services Committee
Eric Gelber, Majority Consultant

AB 254 (Beall)
Proposed Amendments

AMENDMENT #1:

At Section 1, page 3 beginning at line 19, make the following amendment:

(4) When developing an individual program plan for a transition age youth or working wage adult, the regional center ~~**planning team** shall be guided by~~ **should take into consideration** the Employment First Policy described in Chapter 14

AMENDMENT #2:

At Section 1, Page 3 following line 29, insert:

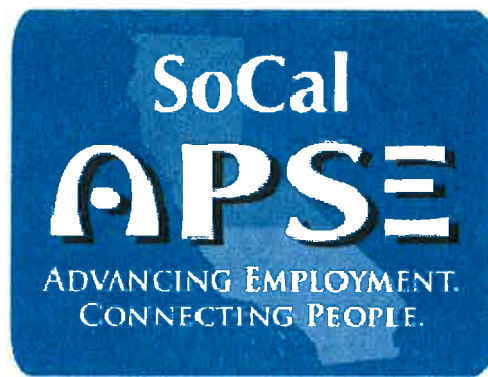
Nothing in this Section shall be interpreted to limit or prohibit a consumer from choosing or receiving any service or support, nor permit or require a regional center to restrict the types of services or supports a consumer may consider during the development and implementation of their Individual Program Plan.

AMENDMENT #3:

At Section 3 page 10 beginning at line 8, make the following amendments:

4869. (a)(1) It is the policy of the state that integrated, competitive employment is the priority outcome for working age individuals with developmental disabilities. This policy shall be known as the Employment First Policy.

By establishing this policy, the state recognizes its obligation to provide the necessary resources, work to identify and remove employment and related barriers and strengthen services and supports that will result in all individuals with developmental disabilities of working age having significant opportunities for integrated, competitive employment consistent with their rights under the Lanterman Act.



479 Balboa Ct.
San Dimas, CA 91773

January 9, 2012

Assemblymember
Assembly Committee on Human Services
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0000

RE: SoCal APSE Support for Employment First

Dear Assemblymember ,

I am writing this letter on behalf of the California members of APSE which is a national membership organization with the sole mission of advancing equitable employment for citizens with disabilities. Employment First policies and initiatives are being implemented are gaining momentum not only in California but across the country.

Our state chapter, SoCal APSE strongly supports AB 254 and agrees with the Employment First Policy as stated: "It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities." We believe in building partnerships and improving policies and practices in a way that will promote employment opportunities for people to contribute as valued members of the California workforce.

As affirmed in our previous support letter from August, 2011, SoCal APSE's employment definition and values concur and compliment California's Employment First policy:

Employment Definition

Regardless of the severity of disability, and assistance required, employment means earning a living wage in a job of a person's choosing, based on the individual's talents, skills and abilities.

Value Statements



479 Balboa Ct.
San Dimas, CA 91773

1. *Individual skills, talents and abilities drive unique and creative employment opportunities.*
2. *Employment offers ordinary opportunities for integration and interaction with coworkers without disabilities, as well as customers and the general public.*
3. *Wages and benefits are comparable to coworkers.*

Our members have expertise and demonstrated success in several key areas including but not limited to the following:

- Making use of blended funding resources including Social Security work incentives in order to customize and/or create employment that matches an individual's skills and talents with business needs;
- Successful job development and business partnership strategies that result in equitable employment outcomes for people with developmental disabilities;
- Using systematic instruction as a method to build skills commensurate with employer expectations;
- Educating employers by dispelling accommodations myths and providing resources;
- Utilizing best practices in customized and self-employment strategies that result in job satisfaction and sustainability;
- Partnering with families and developing circles of support; and
- Modeling systems change within their own organizations in spite of the current economic climate.

We urge the Assembly to support Employment First in our state so that our citizens with developmental disabilities have access to obtain and maintain individualized, integrated employment and achieve a lifestyle that equals that of Californian's without disabilities.

On behalf of SoCal APSE, I appreciate the opportunity to provide this letter of support. SoCal APSE would be happy to meet with you and other policy makers from our state to further discuss funding and other public policy efforts that can help our state become a leader in employment outcomes for citizens with disabilities. We need to engage in new



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conversations and strategies that will advance the employment and economic participation of Californians with developmental disabilities.

Sincerely,

Becky Tschirgi
SoCal APSE President
Becky.tschirgi@yahoo.com
(818) 419-99650

LEGISLATIVE ALERT

ASSEMBLY BILL 254

EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

Assembly Bill (AB) 254 promoting employment of individuals with disabilities is scheduled for a legislative hearing on:

DATE: January 10, 2012

PLACE: Assembly Human Service Committee
Room 437
State Capitol
Sacramento, CA

TIME: 1:30 pm

AB 254 was introduced in 2011 and is currently being amended to:

- Require regional centers be guided by the Employment First policy when developing an individual program (IPP) with a transition age youth or working age adult;
- Defines “competitive employment, integrated employment, microenterprises, and self-employment;
- Establishes an Employment First Policy in state law that reads: “It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities”;
- Clarifies that implementation of this policy is consistent with the rights established under the Lanterman Act, including the right to make informed choices;

- Requires that regional centers inform consumers, families and others about the Employment First policy and options for integrated competitive employment and services and supports designed to lead to employment; and
- Allows the Department of Developmental Services (DDS) to request information from regional centers about the number of consumers in integrated competitive employment.

This is your chance to share your opinion on employment of individuals with disabilities with the Legislature by contacting members and staff of the Assembly Human Services Committee before January 10, 2012 with your position on AB 254. Members and staff are:

Member	Address	Telephone	Fax	Email
Assemblymember Jim Beall, Chairperson	State Capitol Room 5016 Sacramento, CA 95814	916-319-2024	916-319-2124	assemblymember.beall@asm.ca.gov
Assemblymember Brian Jones	State Capitol Room 3147 Sacramento, CA 95814	916-319-2077	916-319-2177	assemblymember.jones@asm.ca.gov
Assemblymember Tom Ammiano	State Capitol Room 4005 Sacramento, CA 95814	916-319-2013	916-319-2113	assemblymember.ammiano@asm.ca.gov
Assemblymember Shannon Grove	State Capitol Room 3098 Sacramento, CA 95814	916-319-2032	916-319-2132	assemblymember.grove@asm.ca.gov
Assemblymember Isadore Hall	State Capitol Room 3123 Sacramento, CA 95814	916-319-2052	916-319-2152	assemblymember.hall@asm.ca.gov
Assemblymember Anthony Portantino	State Capitol Room 2003 Sacramento, CA 95814	916-319-2044	916-319-2144	assemblymember.portantino@asm.ca.gov
Eric Gelber Consultant	1020 N St, #124 Sacramento, CA 95814	916-319-2089	916-319-2189	Eric.Gelber@asm.ca.gov

COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: Proposed amendments to Council bylaws.

BACKGROUND: The attached revisions to the bylaws are intended to: 1) be more accessible when reading, 2) bring the bylaws into conformity with changes in the law and, 3) eliminate unnecessary language.

ANALYSIS/DISCUSSION: The following general proposed changes are being proposed: 1) eliminate the word “consumer” and replace it with either “self-advocate” or “family advocate”, 2) add the Self-Advocates Advisory Committee as a standing committee, 3) add the Employment First Committee as a standing committee, 4) updated the Executive Committee membership to address the two new standing committees, 5) eliminate the indemnification language since it is unnecessary in the bylaws and, 6) incorporate the quorum requirement pursuant to the formal legal opinion issued by the Office of the Attorney General.

COUNCIL STRATEGIC PLAN OBJECTIVE: None

PRIOR COUNCIL COMMITTEE ACTIVITY: The Executive Committee reviewed the proposed bylaws changes on December 13, 2011 and approved all changes with two minor amendments which are reflected in the attached amended bylaws (the amendment is on page 13, Section 2(b) and would allow the Legislative and Public Policy Committee to take positions on significant proposed legislation and/or proposed regulations ***consistent with the California State Strategic Plan and current Legislative and Public Policy Platform.***)

STAFF AND COMMITTEE RECOMMENDATION: That the Council adopt the proposed bylaws changes

ATTACHMENTS: Proposed bylaws changes.

PREPARED: Melissa C. Corral January 3, 2012

State Council on Developmental Disabilities



BY-LAWS

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CALIFORNIA STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

BY-LAWS

(Revised – June 2010)

ARTICLE I. NAME & DEFINITIONS

The name of this organization shall be the State Council on Developmental Disabilities.

ARTICLE II. RESPONSIBILITIES

The responsibilities of the State Council on Developmental Disabilities shall be as are set forth in 42 United States Code Section 51001 et. seq. and Sections 4433.5 and 4520 et. seq. of the California Welfare and Institutions Code.

ARTICLE III. PRINCIPAL OFFICE

The principal office of the Council shall be located in the County of Sacramento, California. The Council may change the principal office from one location to another within the county.

ARTICLE IV. AREA OF SERVICE

The area of service shall be the State of California.

ARTICLE V. MEMBERSHIP

Appointment to the Council requires each member to fully discharge his/her duties consistent with the responsibilities of representing persons with developmental disabilities. The membership of the Council shall consist of the categories of people in accordance with state and federal law.

SECTION 1. Appointments:

Pursuant to Division 4.5, Chapter 2, Article 1, Section 4521 (b)(1), (2), and (3) of the Welfare and Institutions Code, there shall be thirty-one (31) voting members on the Council appointed by the Governor, as follows:

- (a) Twenty (20) members of the Council shall be persons with a developmental disability (**self-advocates**) or parents, siblings, guardians or conservators (**family-advocate**) of these persons. In these By-laws these persons are referred to as ~~consumer members~~ (**self-advocates and family-advocates**). Of the 20 members, thirteen (13) shall each be current members of the 13 Area Boards, one member from each board and representing consumers and families in their local catchment area; and, seven (7) shall be members at large that are comprised as follow: three (3) persons with developmental disabilities; one (1) person who is a parent, immediate relative, guardian, or conservator of a resident in a developmental center; one (1) person who is a parent, immediate relative, guardian, or conservator of a person with a developmental disability living in the community; one (1) person who is a parent, immediate relative, guardian, or conservator of a

person with a developmental disability living in the community nominated by the Speaker of the Assembly; and, one (1) person with a developmental disabilities nominated by the Senate Committee on Rules.

- (b) Eleven (11) members of the Council shall include: directors or members, as appropriate, of State departments or agencies or of local agencies as prescribed in state and federal laws. These persons are referred to as agency representatives in these By-laws and shall include three (3) members appointed to represent the University Centers for Excellence (UCE) programs funded by the Administration on Developmental Disabilities as the three California UCEs.
- (c) Prior to appointing the thirty-one (31) members, the Governor shall request and consider recommendations from organizations representing or providing services, or both, to persons with developmental disabilities and shall take into account socioeconomic, ethnic, and geographic considerations of the state. The Council may, at the request of the Governor, coordinate Council and public input to the extent feasible to the Governor regarding recommendations for membership.

SECTION 2. Term of Office:

The term of office on the State Council shall be in accordance with state law. The term of each ~~consumer~~ **self or family advocate** member shall be for three years. In no event shall any ~~consumer~~ **self or family advocate** member serve for more than a total of six years.

SECTION 3. Conflict of Interest:

Pursuant to California Welfare and Institution Code Section 4525 the Council's approved Conflict of Interest Policy, is incorporated by reference into these By-laws.

SECTION 4. Vacancies:

A vacancy on the Council exists if any of the following events occur before the expiration of the term:

- (a) The death of the member.
- (b) An adjudication pursuant to a legal proceeding declaring that the member is physically or mentally incapacitated due to disease, illness, accident, or other condition, and that there is reasonable cause to believe that the member will not be able to perform the duties of office for the remainder of his/her term.
- (c) The member's resignation.
- (d) The member's removal from office.
- (e) The member's ceasing to be a legal resident of the state or the area the member was appointed to represent.
- (f) The member's absence from the state without the permission required by law beyond the period allowed by law.
- (g) The member's ceasing to discharge the duties of his/her office for the period of three consecutive meetings, except when prevented by sickness, or when absent

from the state with the permission required by law. After three (3) consecutive unexcused absences, a member shall be considered as having ceased to discharge the duties of Council membership. An unexcused absence is an absence of a member when previous notice of absence has not been given to the Council Chair or Committee Chair and to the Executive Director by telephone, email, or mail.

- (h) The member's conviction of a felony or any offense involving a violation of his/her official duties. A member shall be deemed to have been convicted under this section when trial court judgment is entered.
- (i) The member's refusal or neglect to file his/her required oath, or declaration statement of conflict of economic interests and complete ethics training within the time prescribed.
- (j) The decision of a competent tribunal declaring void the member's election or appointment.
- (k) ~~The making of a vacating order or~~ declaration of vacancy.
- (l) The member assumes a position or responsibility that violates the Council's conflict of interest policy.

The Governor shall be notified when a vacancy occurs and shall appoint a person to serve the unexpired term of the member being replaced.

SECTION 5. Resignations:

Members shall serve a designated term unless they resign, or are otherwise disqualified to serve, or until successors have been appointed up to the maximum years allowed by State law. Any member may resign at any time by giving written notice to the Chairperson and to the Executive Director. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. Compensation and Expenses:

Consumer Self-advocate and family advocate members of the State Council shall receive honoraria pursuant to Government Code 11564.5, and Welfare and Institution Code Section 4550 not to exceed fifty (50) days in any fiscal year. All members shall be reimbursed for any authorized actual and necessary expenses incurred in connection with the performance of their duties as Council members, in accordance with state regulations in the State Administrative Manual.

ARTICLE VI. MEETINGS

SECTION 1. Parliamentary Authority:

- (a) All meetings of the Council and its committees are public meetings governed by the Bagley-Keene Open Meeting Act (Government Code Section 11120, et. seq.).

- (b) Robert's Rules of Order shall be utilized as the rules for all Council and committee meetings except in instances of conflict with these By-laws, or provisions of State or federal law or regulations. The Vice-Chairperson shall serve as Parliamentarian.
- (c) The Council may adopt, from time-to-time, such policies and rules for the conduct of its meetings and affairs as may be required.

SECTION 2. Meetings:

- (a) There shall be no less than six (6) and no more than twelve (12) meetings of the Council per year.
- (b) Special meetings of the Council may be called by the Chairperson or, in case of absence or inability to act by the Chairperson, by the Vice-Chairperson. In case of a refusal to act by the Chairperson, a special meeting may be called by written request of nine (9) members of the Council. Only matters specified in the written notice of the meeting shall be considered at such a meeting.
- (c) Regular or special meetings of the Council shall be held at a place, date, and time designated by the Council or selected by the Chairperson.

SECTION 3. Quorum:

- (a) A quorum for the Council shall be a simple majority of the ~~Governor-appointed members~~ **statutory required membership.**
- (b) A quorum for each Council committee and sub-committee shall be a simple majority of the ~~appointed~~ members of that committee.

SECTION 4. Voting Rights of Members:

- (a) Each member shall be entitled to one vote, to be exercised in person. Proxy voting shall not be permitted.
- (b) Except as otherwise specifically provided in State law or these By-laws, all matters submitted for determination shall be decided by a majority vote.

SECTION 5. Chairperson Pro Tem:

If neither the Chairperson nor Vice-Chairperson is present to preside at a Council meeting, a chairperson pro tem shall be elected by the majority vote of the Council members present.

ARTICLE VII. OFFICERS

SECTION 1. Officers:

The officers of the Council shall be a chairperson and a vice - chairperson elected from among the ~~consumer~~ **self and family advocate** members. These officers shall perform the duties described in these By-laws.

SECTION 2. Election of Member Officers:

Election of officers shall occur once every two years. The election shall be held during the last meeting of the appropriate calendar year. Only consumer **self and family advocate** members shall be eligible to hold office.

SECTION 3. Voting Procedure:

Council officers shall be elected by a majority vote. Recommendations for officers shall be in the form of nominations from the Nominating Committee. ~~However~~, nominations may also be received from the floor prior to the election, but subsequent to the report of the Nominating Committee.

SECTION 4. Term of Office:

The Chairperson and Vice-Chairperson shall be elected for a term of two years. Individuals may be elected to these positions for no more than two consecutive terms. Their term of office shall begin the first day of the new calendar year.

SECTION 5. Vacancies:

If the Chairperson resigns or is permanently unable to serve during the term of office pursuant to Article V Section 4, the Vice-Chairperson shall become the Chairperson for the remainder of such term. ~~Nominations and elections to fill the newly vacated Vice Chairperson position shall occur at the next noticed meeting of the Council.~~ **Upon the vacancy of the Vice-Chairperson's term of office** or if the Vice-Chairperson resigns or is permanently unable to serve during the term of office, ~~nominations and elections to fill the newly vacated position shall occur at the next noticed meeting of the Council.~~ the Chairperson shall appoint **an interim** Vice-Chairperson to serve until an election is conducted. ~~The person so elected shall serve for the remainder of that term.~~ **The Chairperson shall also appoint a nominating committee of at least three (3) but not more than five (5) Council members that will provide a slate of nominations for the election of Vice-Chairperson during the next appropriate Council meeting.**

The voting procedure established in Article VII, Section 3 shall be used for the election process of the permanent Vice-Chairperson.

Nominations for

SECTION 6. Duties of the Officers:

- (a) Chairperson - The responsibilities of the Chairperson are: to preside at all meetings of the Council; to appoint chairpersons and members to all Council committees, except the Nominating Committees, to appoint Council representatives in relation to other agencies and consumer groups; and to represent the Council as needed. The Chairperson shall have full voting rights on all Council actions.
- (b) Vice-Chairperson - The responsibilities of the Vice-Chairperson are to perform all the duties of the Chairperson if the Chairperson is absent or if the Chairperson

requests the Vice-Chairperson to do so. When acting in the capacity of the Chairperson, the Vice-Chairperson has the same authority as the Chairperson. The Vice-Chairperson also, serves as Chair of the Executive Committee and as Parliamentarian.

SECTION 7. Removal from Office:

Action to remove an officer shall be in accordance with the following procedure:

- (a) Written notification must be submitted by registered mail to the Executive Director from Council member(s) describing the specific cause for which removal is sought.
- (b) The Executive Director shall notify the officer charged by registered mail within two (2) working days of receiving the charges. Any member so notified shall have ten (10) days to respond to the group or individual responsible for notification. Following this ten (10) day period, the responsible parties shall notify the Executive Director within ten (10) days as to whether or not they wish to request removal of the officer. If the responsible parties are satisfied by the officer's response that no sufficient cause exists, the matter will be closed with written notice to the Executive Director and to the officer.
- (c) If the group or individual requesting removal is not satisfied by the response of the officer or if the officer fails to respond in ten (10) days, the Executive Director shall put the issue on the agenda at the beginning of the next Council meeting and inform the Council members as to the purpose of the agenda item.
- (d) Written charges shall be distributed and reviewed at the specified meeting of the Council.
- (e) A majority vote shall be required to remove a chairperson or vice-chairperson from office. If removal of the Chairperson is under consideration, the vice-chairperson shall preside.

ARTICLE VIII. EXECUTIVE DIRECTOR

SECTION 1. Appointment:

- (a) The Executive Director of the Council shall be appointed by and serve at the will of the Council in a position exempt from all civil service requirements pursuant to the California Constitution, Article 7, section 4(b) and Welfare and Institutions Code Section 4551(a)(2). The appointment of the Executive Director shall occur during a regular or special meeting of the Council.
- (b) A performance review of the Council Executive Director shall be coordinated by the Executive Committee and conducted annually by the full Council.

SECTION 2. Responsibilities and Duties:

- (a) The Council Executive Director shall be the chief administrative officer of the Council and shall have all the authority and responsibility assigned to the director of a state agency including budget, personnel, and contractual transactions. These include authority for entering into and execution of agreements on behalf of the Council in order to implement the policies of the Council.
- (b) The Council Executive Director shall be under the direction and control of the Council and shall do and perform such other duties as may be assigned by the Council.
- ~~(c) The Council Executive Director shall serve as clerk to the Council.~~

SECTION 3. Removal:

- (a) Action to remove the Executive Director of the Council shall be conducted in accordance with ~~applicable Open Meeting Laws governing personnel matters pursuant to~~ Government Code Section 11120, et. seq.
- (b) The Executive Committee of the Council may recommend removal of the Executive Director during a regular or special meeting. This recommendation shall be taken to the Council during a regular or special meeting for discussion and action.
- (c) A majority vote, during a regular or special Council meeting, shall be required to remove the Executive Director from his or her exempt appointment.

ARTICLE IX. COMMITTEES

SECTION 1. Authority:

- (a) Subject to the provision of these By-laws, all committees, with the exception of the Executive Committee **and Legislative and Public Policy Committee**, shall be advisory and shall not have the power to bind the Council except when specifically authorized by the Council to do so. Recommendations made by advisory committees shall be presented to the Council for adoption in the form of a motion.
- (b) Subject to provision of these By-laws, a vacancy in the membership of a committee, except the Nominating Committee, may be filled by the Council Chairperson.
- (c) A committee may meet upon call of the chairperson of the committee or the Council Chairperson.
- (d) Unless otherwise specified in these By-laws, the Chairperson and the Executive Director of the Council shall serve ex officio, without vote, on all committees, except the Nominating Committee.

- (e) A committee member may be removed from the committee by the Council Chair after three (3) consecutive unexcused absences. An unexcused absence is an absence of a member when previous notice of absence has not been given to the Committee Chair or Executive Director or appropriate Deputy Director by telephone, e-mail or mail.

SECTION 2. Standing Committees:

- (a) There shall be ~~three (3)~~ **five (5)** standing committees of the State Council:
 - (1) ~~Executive Committee~~
 - (2) ~~Legislative and Public Policy Committee~~
 - (3) ~~Program Development Committee~~
 - (4) Self-Advocates Advisory**
 - (5) Employment First**
- (b) The chairperson and members of each of the standing committees shall be appointed by the Council chairperson. In the event of a vacancy for any reason in membership or the chair, a successor may be appointed by the Council Chairperson. In appointing standing committee chairpersons, the Council Chairperson may request volunteers from the Council's ~~consumer~~ **self and family advocate** members. All committee chairperson appointments shall be announced to the Council at the next available Council meeting.
- (c) The membership of all standing committees, except the Executive Committee, shall be open to non-members of the Council. The expenses of non-Council members may be reimbursed on the same basis as a Council member with the exception of the honorarium.
- (d) All members of the Council shall be expected to serve on at least one standing committee of the Council.
- (e) The charge of each of these committees shall be as follows:
 - (1) Executive Committee
The Executive Committee shall serve as the coordinating body to the Council. The Committee shall:
 - [a] Consist of the Council Chairperson, Vice-Chairperson , chairperson of the Legislative and Public Policy Committee, chairperson of the Program Development Committee, chairperson of the Strategic Planning Subcommittee, **chairperson of the Self-Advocates Advisory Committee, chairperson of the Employment First Committee** and four (4) **two (2)** other Council members, at least two (2) of whom shall be consumer members. **One (1) shall be a self-advocate and one (1) shall be a family member of a self-advocate.**

- [b] Be chaired by the Council Vice-Chairperson.
- [c] Act on behalf of the Council between meetings, but shall not modify any action taken by the Council unless authorized by the Council to do so. The full Council at the next regular or special meeting shall receive a report of all Executive Committee actions taken between Council meetings and ratify as necessary.
- [d] Administrative matters shall be a standing agenda item at every meeting and shall include but not be limited to, budget reports, expenditure reports and other major administrative issues.
- [d] Make recommendations to the Council regarding approval of Community Program Development Grants (CPDG) projects to be funded, and allocations.
- [e] Appoint members of CPDG Grant Review team **as needed**.
- [f] Provide direction to the Executive Director regarding the ~~administration of Council resources~~ **all matters pertaining to Council responsibilities**.
- [g] Make recommendations to the Council regarding amendments to the By-laws, changes in committee structure or responsibilities.
- [h] Make recommendations to the Council regarding Council member training.
- [i] Make recommendations to the Council regarding the presentation of awards on behalf of the Council.
- [j] ~~Provide direction to the Executive Director regarding Council meeting schedules and agendas.~~
- [k] Make recommendations to the Council regarding matters assigned by the Council or the Council Chairperson.
- [l] Make recommendations to the Council regarding the appointment, evaluation, or removal of the Executive Director.
- [m] Monitor and evaluate California State Strategic Plan on Developmental Disabilities implementation and submit findings to the Council.

- [n] Review and make recommendations to the Council regarding area boards' requests to initiate litigation per Welfare and Institution Code Section 4548(g)(4) and (6).
- [o] Coordinate the Council's litigation activities, as needed, and make recommendations to the full Council.
- ~~[p] Take action on all requests for Conflict of Interest Policy exceptions and make all determinations whether a conflict of interest exists.~~
- [q] Make appointments to and receive recommendations from the Strategic Planning Sub-Committee.
- [r] Present a slate of nominees to be elected to the Nominating Committee. Election to the Nominating Committee shall occur ~~annually~~ at the September Council meeting **during election years**.

1. Strategic Planning Sub-Committee

The Subcommittee shall:

- (a) Advise the Executive Committee on the collection and reporting of information on needs, including unmet needs, priorities and emerging issues
- (b) Make recommendations to the Executive Committee regarding policy priorities for the California State Strategic Plan on Developmental Disabilities
- (c) Assist the Council in the implementation and reporting of the goals and objectives of the Council's California State Strategic Plan on Developmental Disabilities.
- (d) Coordinate planning implementation with the other Committees of the Council.

(2) Legislative and Public Policy Committee

The Legislative and Public Policy Committee shall implement the California State Strategic Plan on Developmental Disabilities objectives as assigned by the Council. The Committee shall:

- [a] Be composed of at least seven (7) members.
- [b] Review, and comment **and take positions** on significant proposed legislation and/or proposed regulations **consistent with the**

California State Strategic Plan and current Legislative and Public Policy Platform.

- [c] Recommend legislation consistent with Council's responsibilities and objectives.
- [d] Recommend initiatives and policies consistent with Council responsibilities and objectives.
- [e] Provide testimony and recommendations to the Legislature with regard to ~~fiscal or policy~~ matters pertaining to people with developmental disabilities.
- [f] Respond to other responsibilities as assigned by the Council or Council Chairperson.

(3) **Program Development Committee**

The Program Development Committee shall advise the Council in the development of services and projects designed to improve the quality of life for individuals with developmental disabilities and their families

The Committee shall:

- [a] Be composed of at least seven (7) members.
- [b] Make recommendations to the Council regarding the Community Program Development Grant (CPDG) application process and suggested priorities/criteria for proposals.
- [c] Develop methods to market and implement successful CPDG projects throughout the State.
- [d] Carry out other responsibilities as assigned by the Council or the Council Chairperson.

(4) **Self-Advocates Advisory Committee**

The Self-Advocates Advisory Committee shall advise the Council regarding self-advocacy issues involving the Council and the community. The Committee shall:

- [a] Be composed of all self-advocate members of the Council.**
- [b] Advise the Council regarding self-advocate needs related to serving the Council including manners in which to ensure participation and inclusion in all meetings.**

- [c] Advise the Council regarding policies, programs and any other area affecting self advocates in California.**
- [d] Review materials and other Council produced information to evaluate and make recommendations regarding plain language approaches.**

(5) Employment First Committee

The Employment First Committee is responsible for ensuring the development of an Employment First Policy which has the intended outcome of significantly increasing the number of individuals with developmental disabilities who engage in integrated, competitive employment. The Committee shall:

- [a] Be composed of a representative from each of the following:**
 - (1) The Department of Developmental Services**
 - (2) The Department of Rehabilitation**
 - (3) The California Department of Education**
 - (4) One from each of the three University Centers of Excellence in California**
 - (5) Disability Rights California**
 - (6) Employment Development Department**
 - (7) Family Resource Center Network**
 - (8) Association of Regional Center Agencies**
 - (9) Service Employees International Union**
 - (10) The ARC**
 - (11) Four self-advocates**
 - (12) Four family advocates**
 - (13) Such others as deemed needed to implement the responsibilities of the Council.**
- [b] Identify the respective roles and responsibilities of state and local agencies in enhancing integrated, competitive employment for people with developmental disabilities.**
- [c] Identify strategies, best practices, and incentives for increasing integrated, competitive employment opportunities for people with developmental disabilities, including, but not limited to, ways to improve the transitional planning process for students 14 years of age or older, and to develop partnerships with, and increase participation by, public and private employers and job**

developers.

- [d] Identify existing sources of employment data and recommend goals for, and approached to measuring progress in, increasing integrated, competitive employment for persons with developmental disabilities.
- [e] Recommend legislative, regulatory, and policy changes for increasing the number of individuals with developmental disabilities in integrated, competitive employment, self-employment, and microenterprises and who earn wages at or above minimum wage.
- [f] Provide an annual report to the Governor and Legislature by July 1 of each year that describes the work and recommendations of the Committee.

SECTION 3. Nominating Committee:

The Nominating Committee shall provide advice to the Council relative to the bi-annual election of Council officers. The Committee shall:

- (a) Be composed of at least three (3) and not more than five (5) Council members.
- (b) Be elected by the Council at the September Council meeting from a slate of nominations presented by the Executive Committee.
- (c) Serve for one year. Be elected at least forty-five (45) days prior to the annual election.

SECTION 4. Committees, Sub-Committees and Ad-Hoc Committees and Task Forces:

- (a) Committees, Sub-committees, Ad-Hoc committees and Task Forces may be established by the Council to carry out specified California State Strategic Plan on Developmental Disabilities objectives and purposes of the Council.
- (b) The term of office and, qualifications of these groups' chairpersons and members shall be established by the Council. The membership of Sub-Committees and Ad-Hoc committees shall be open to non-members of the Council and shall be appointed by the Chairperson of the Council. The expenses of non-Council members may be reimbursed on the same basis as a Council member with the exception of the honorarium.

ARTICLE X. COUNCIL GENERAL PROVISIONS

SECTION 1. Certification and Inspection:

The original or a copy of the By-laws, as amended or otherwise altered to date, certified by the Council shall be recorded and kept in a book that shall be kept in a location in the principal office of the Council, and such book shall be open to public inspection at all times during office hours.

SECTION 2. Records, Reports and Inspection:

- (a) The Council shall maintain ~~or contract through an interagency agreement for~~ adequate and correct accounts, books and records of all its business and properties.
- (b) Such records shall be kept at its principal place of business ~~or available through any interagency agreement~~. All books and records shall be open to inspection by the Council and the general public, except those records or data regarding an employee, if such disclosure would constitute an unwarranted invasion of personal privacy, or records of the Council relating to its participation in a judicial proceeding.
- (c) An annual financial report and budgets shall be available for inspection at the Council's principal place of business.

ARTICLE XI. AMENDMENTS OF BY-LAWS

Subject to the limitations of federal and state law, these By-laws shall be reviewed annually. The Executive Committee shall be responsible for the annual review of the By-laws, submitting recommendations for adoption of new By-laws and amendments or repeal of existing By-laws to the Council. These By-laws may be amended, repealed or adopted by a two – thirds majority during any regular or special meeting of the Council so long as a draft of the proposed action was submitted in writing to the Council at least ten (10) days prior to the meeting.

ARTICLE XII. INDEMNIFICATION

SECTION 1. Definitions:

~~For the purposes of this Article XII, "agent" means any person who is or was a director or member as appropriate, officer, employee, or other agent of the Council. Proceeding means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and expenses include without limitation attorney's fees and any expenses of establishing a right to indemnification under Section 4 or 5(b) of this Article XII.~~

SECTION 2. Indemnification in Actions by Third Parties:

~~The Council shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Council to procure a judgment in its favor, by reason of the fact that such person is or was an agent of the Council, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in~~

~~a manner such person reasonably believed to be in the best interests of the Council and, in the case of a criminal proceeding, has no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the Council or that the person had reasonable cause to believe that the person's conduct was unlawful.~~

SECTION 3. Indemnification in Actions by or in the Right of the Council:

~~The Council shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of the Council, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the Council, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the Council, and with such care, including reasonable inquiry as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:~~

- ~~(a) — In respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the Council in the performance of such person's duty to the Council, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;~~
- ~~(b) — Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or~~
- ~~(c) — Of expenses incurred in defending a threatened or pending action, which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.~~

SECTION 4. Indemnification Against Expenses:

~~To the extent that an agent of the Council has been successful on the merits in defense of any proceeding referred to in Section 2 or 3 of this Article XII or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.~~

SECTION 5. Required Determinations:

~~Except as provided in Section 4 of this Article XII any indemnification under this Article XII shall be made by the Council only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 2 or 3 of this Article XII, by:~~

- ~~(a) — A majority vote of a quorum consisting of directors or members as appropriate,~~

~~who are not parties to such proceeding; or~~

- ~~(b) The court in which such proceeding is or was pending upon application made by the Council or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by the Council.~~

~~SECTION 6. Advance of Expenses:~~

~~Expenses incurred in defending any proceeding may be advanced by the Council prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article XII.~~

~~SECTION 7. Other Indemnification:~~

~~No provision made by the Council to indemnify its or its subsidiary's directors or members as appropriate, or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution directors or members as appropriate, or an agreement, or otherwise, shall be valid unless consistent with this Article XII. Nothing contained in this Article XII shall affect any right to indemnification to which persons other than such directors or members as appropriate, and officers may be entitled by contract or otherwise.~~

~~SECTION 8. Forms of Indemnification Not Permitted:~~

~~No indemnification or advance shall be made under this Article XII, except as provided in Section 4 or 5(b), in any circumstances where it appears:~~

- ~~(a) That it would be inconsistent with a provision of the Articles, these By-laws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or~~
- ~~(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.~~

Draft
**Executive Committee and Subcommittee on Planning Meeting
Minutes
December 13, 2011**

Attending Members

Jennifer Allen
Ray Ceragioli
Lisa Cooley
Olivia Raynor
Leroy Shipp, Chairperson

Members Absent

Michael Bailey

Others Attending

Melissa Corral
Michael Danti
Robin Maitino
Roberta Newton
Carol Risley

1. **Call to Order**

Leroy Shipp called the meeting to order at 1:10 p.m. and established a quorum present.

2. **Welcome and Introductions**

Members and staff introduced themselves.

3. **Approval of August 16, 2011 Minutes**

It was moved/seconded (Ceragioli/Cooley) and carried to approve the August 16, 2011, Executive Committee meeting minutes as presented.

4. **Public Comments**

Leroy Shipp announced how much Michael Bailey would be missed.

5. **Financial Update**

Michael Danti presented the financial statement, noting that our spending level is on target. All area boards are on target and within their allocations. Michael confirmed we have enough cash to make it through this fiscal year.

6. Committee Updates

a. **Legislative and Public Policy**

Assembly Bill (AB) 1244 was brought to November Council meeting for action. Due to a lack of quorum, this item was referred to Executive Committee for action. It was moved/seconded (Allen/Raynor) and carried to support AB 1244 as recommended by LPPC.

AB 254 was brought to the November Council meeting for action. Due to a lack of quorum, this item was referred to Executive Committee for action. It was moved/seconded (Raynor/Allen) and carried to support and sponsor AB 254 as recommended by LPPC.

2011-12 State Budget Trigger

Carol Risley reported on the December 13, 2011 announcement from the Department of Finance (DOF) that state income (revenues) are not what was hoped for when the 2011-12 State Budget was passed in June 2011 and because of that, a pre-panned “trigger” was pulled and there would be \$1 billion reductions in budgets that pay for services and supports to individuals with disabilities, education and others. This trigger was part of the budget passed back in June just in case income did not appear as hoped and while some additional money did come in, it was not enough to cover the \$4 billion hole left when the budget was passed.

Carol provided the committee a chart from DOF that detailed where the nearly \$1 billion in cuts would be made on January 1, 2012. Two items directly impact individuals with disabilities and seniors, those being the \$100 million reduction in the developmental services system, and \$101 million in in-home supportive services (IHSS).

Carol went on to share that a DOF spokesperson noted that the \$100 million reduction for developmental services will be managed within existing authority to manage the budget by the Department of Developmental Services (DDS) and that savings may come from developmental centers, reduced caseloads, extending the current payment discounts, and savings from insurance coverage for autism services. DOF also stated that “some additional legislation may be necessary to absorb these cuts in 2012-13”.

Following the announcement, the Council was contacted by Terri Delgadillo and Mark Hutchinson from DDS to provide similar and additional information regarding the cuts to the developmental services budget. Terri reiterated that DDS expects to manage the reduction within its existing authority and will be looking a savings from caseload changes, unexpended contracts, and additional income, among other things. When asked about the impact of these cut upon federal funds potentially matched with these state funds, Terri indicated that there is no way of knowing what the impact might be.

b. State Plan

The 2012-16 State Plan was submitted to ADD. A peer review panel provided input in the form of strengths, weaknesses, and recommendations. Two major recommendations were to compress our 15 Goals into five goals and to beef up our proposed evaluation plan. SCDD does not believe it would be an improvement to reduce the number of goals since California is such a large state and so many issues are being pursued. SCDD will, however, take another look at the evaluation plan and revise, with Olivia Raynor's assistance.

7. Sponsorship Request

The sponsorship request from Jay Nolan Community Services was brought to the November Council meeting for action. Due to a lack of quorum, this item was referred to Executive Committee for action. Jay Nolan is requesting a sponsorship of \$999.00 to assist 100 low income parents to attend the premier screening of the documentary Education Revolution. It was moved/seconded (Cooley/Allen) and carried to approve this sponsorship request. (1 abstention)

8. Proposed Bylaw Revisions

Melissa Corral submitted the following proposed Council bylaw changes: 1) eliminate the word "consumer" and replace it with either "self-advocate" or "family advocate"; 2) add the Self-Advocates Advisory Committee; 3) add the Employment First Committee; and, 4) eliminate the indemnification since they are unnecessary in the bylaws. It was moved/seconded (Allen/Ceragioli) and carried to approve the Bylaws as amended and recommended adoption by the full Council.

9. **Joint Meeting with State Independent Living Council**

Carol Risley informed the Committee that the State Independent Living Council is interested in holding a joint meeting with SCDD. This joint meeting would touch on cross disabilities and the challenges they face.

The Committee agreed to hold a joint meeting in March 2012.

10. **Appointments Update**

Even after getting our legislators involved, Carol Risley reported that the appointment packages continue to sit in the Governor's office with little movement.

11. **Agenda for January Council Meeting**

Members discussed potential agenda items for the January Council meeting including the recommendation for the new Area Board 2 Executive Director, the change in by-laws, state plan update, committee reports, department highlights on the trigger, the 2012-13 proposed budget, Nominating Committee and election of Vice-Chairperson, and announcing the joint meeting between SCDD and the State Independent Living Council in March.

12. **Adjournment**

The meeting was adjourned at 4:00 p.m.

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
2012-13 GOVERNOR'S BUDGET HIGHLIGHTS
January 9, 2012

On January 5, 2012 Governor Jerry Brown released his proposed 2012-13 budget, addressing a \$9.2 billion projected shortfall for the remainder of 2011-12 and the upcoming 2012-13 fiscal years. The Governor proposed \$10.3 billion in “solutions” to close the gap and provided for a \$1.1 billion budget reserve. The gap represents a \$4.1 billion shortfall in 2011-12 and a \$5.1 billion projected shortfall in 2012-13. The budget assumes that voters approve a measure that would be placed on the November 2012 ballot that would raise \$6.9 billion in 2011-12 and 2012-13. The budget also includes \$5.4 billion additional cuts that would be triggered if voters fail to approve the proposed tax measure. Those additional cuts would be:

- \$4.8 billion from public schools and community colleges;
- \$200.0 million from the University of California;
- \$200.0 million from the California State University;
- \$125.0 million from the courts, a reduction “equivalent to court closures of three days per month”;
- \$15.0 million from the Department of Forestry and Fire Protection, resulting in a reduction to the emergency air response program and the closure of fire stations;
- \$6.6 million from flood control programs, resulting in reduced channel and levee maintenance and floodplain mapping;
- \$5.5 million by reducing funding for Department of Fish and Game wardens and state park rangers and eliminating funding for lifeguards at state beaches; and
- \$1.0 million from the Department of Justice’s law enforcement programs.

The budget includes cuts to health and human services programs, as well as student aid and child care. Health and human services and child care programs would be targeted for \$2.5 billion in spending reductions. The budget also includes \$301.7 million of cuts to the Cal Grant Program, which provides financial aid to lower-income students pursuing post-secondary education.¹

Specific budget proposals include:

¹ Leak Results in Early Budget Release: Governor Makes Deep Cuts to the Safety Net and Assumes Voters Approve November Ballot Measure, California Budget Project, January 6, 2012.

Department of Developmental Services (DDS)

Community Services Program

- Estimated caseload for served by regional centers of 256,059 reflecting an increase of 6,385 individuals or 2.6%. This caseload reflects the sunset of the Prevention Program.
- A total budget of \$4.063 billion representing an increase of \$79.2 million over 2011-12.

This includes increased funding for regional center operations and purchase of services to reflect increased caseload and expenditure data; decreased funding in regional center operations for the ICF-DD State Plan Amendment Administration Fees and day treatment and transportation costs for ICF-DD-H residents; a decrease to reflect updates expenditures in other department's budgets for Adult Day Health Centers and reductions in MediCal caps and co-payments; an increase to reflect the sunset of the 4.25% payment reduction on June 30, 2012; an increase for the Financial Management Services for Participant-Directed Services ; a decrease to reflect a technical adjustment to annualize the cost containment proposals specified in Assembly Bill 104, Chapter 37, and Statutes of 2011; an increase to reflect a fund shift from California First Five Commission to GF (Proposition 10); and a decrease to reflect trigger reductions to be achieved.²

Revenue Trigger Reduction

Stakeholders will be convened to provide input on how to achieve the required 2012-13 revenue trigger savings of \$200 million general fund in the developmental services system. Consideration will be given to the extension of all or part of the 4.25 percent payment reduction, strategies to decrease the need for admissions from the community into developmental centers, opportunities to achieve efficiencies through emerging technologies, reduced expenditures associated with recently enacted legislation and other savings proposals.³

² Regional Center Local Assistance Estimate, Department of Developmental Services, January 5, 2012.

³ 2012-13 Governor's Budget Highlights, Department of Developmental Services, January 5, 2012.

Developmental Centers

- Estimated average number of residents of 1,533 reflecting a decrease of 226 (12.8%).
- A total budget of \$559.1 million reflecting a decrease of \$18 million.

This includes a decrease for Level of Care and Non-Level of Care staffing; an increase due to state wide Control Sections that drove adjustments in retirement and health benefits rates; a decrease due to updated Quality Assurance Fees paid by developmental centers; an increase to retain 28 positions for enhanced Lanterman Closure staffing; an increase in reimbursement authority for the State Staff in the Community program; and, a decrease for miscellaneous reductions, including cell phone reductions as part of state wide efficiencies and funding changes.⁴

DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

- A total budget of \$61.0 billion for the support of DHCS programs and services. Of the amount proposed, \$506.1 million is for state operations and \$60.4 billion is for local assistance.⁵

MediCal

- The budget would reduce state spending on MediCal from \$15.4 billion in 2011-12 to \$15.1 billion in 2012-13. Absent the Governor's proposals, state spending on MediCal would rise to \$15.9 billion in 2012-13.

Specifically, the budget:

- Shifts more than 1 million seniors and people with disabilities who currently qualify for both MediCal and Medicare (dual eligibles) from fee-for-service MediCal into managed care. This proposal would also broaden the scope of managed care services to include In-Home Supportive Services, other home and community-based services, and nursing home care funded by MediCal. These changes would be phased in over a three-year period beginning on January 1, 2013. This proposal – along with a related proposal to defer payments to

⁴ 2012-13 Governor's Budget Highlights, Department of Developmental Services, January 5, 2012.

⁵ 2012-13 Governor's Budget Highlights, Department of Health Care Services, January 6, 2012.

MediCal health care providers on a one-time basis to “accelerate” savings into 2012-13 and 2013-14;

- Expands managed care into rural counties that currently offer MediCal services only on a fee-for-service basis. This would be implemented in June 2012;
- Initiates a process to increase “flexibility” in MediCal in order to “be able to change benefits, services, rate methodologies, and payment policies faster than the current regulatory process allows;
- Changes the method used to determine payments for two types of clinics – federally qualified health centers and rural health clinics – reducing state;
- Reduces eligibility for the Medical Therapy Program (MTP). Currently, the program does not require families to meet an income test. Under the proposal, families would be eligible for the MTP only if their income is less than \$40,000 per year or if they also receive services through the California Children’s Services (CCS) Program and their CCS expenses exceed 20 percent of their income;
- Requires MediCal enrollees to select their health plan during an annual open enrollment period and remain in that plan for a full year. Currently, MediCal enrollees may change their plans every month;
- Shifts unexpended funds that were intended for certain public and private hospitals between 2005-06 and 2009- 10 in order to achieve one-time state and “avoid direct service reductions”;
- Continues the tax on MediCal managed care; and,
- Extends a fee imposed on hospitals through an unspecified date.⁶

⁶ Leak Results in Early Budget Release: Governor Makes Deep Cuts to the Safety Net and Assumes Voters Approve November Ballot Measure, California Budget Project, January 6, 2012.

Reorganizations

The budget continues efforts to streamline government operations. Reorganizations impacting DHCS are:

- With the elimination of the Department of Mental Health (DMH) and the Department of Alcohol and Drug Programs (DADP), major community mental health programs and remaining non-Drug MediCal programs and associated funding will be shifted to the Department of Health Care Services (DHCS) as follows:
 - ▶ Major community mental health programs and remaining non-Drug MediCal services would be transferred to the DHCS;
 - ▶ Licensing functions would be transferred to the Department of Social Services;
 - ▶ Early Mental Health Initiative grants would be transferred to the California Department of Education;
 - ▶ The Mental Health Workforce Education and Training Program would be transferred to the Office of Statewide Health Planning and Development;
 - ▶ Mental Health Services Act (Proposition 63) training, technical assistance, and program evaluation would be transferred to the Mental Health Services Oversight and Accountability Commission; and,
 - ▶ Problem gambling services, counselor certification, and related functions would be transferred to the Department of Public Health.
- Transfer of the following medical services programs from the California Department of Public Health (CDPH) to DHCS effective July 1, 2012: (1) Every Woman Counts, (2) Prostate Cancer Treatment, and (3) Family Planning Access Care and Treatment; and,
- Elimination the Managed Risk Medical Insurance Board by July 1, 2013. The remaining programs administered by the Board will transition to the DHCS by July 1, 2013. These programs include the Access for Infants and

Mothers, the County Health Initiative Matching Fund Program, the Major Risk Medical Insurance Program (MRMIP), and the Pre-Existing Conditions Insurance Plan (PCIP) programs. The two programs that provide insurance to individuals with pre-existing conditions, MRMIP and PCIP, will be eliminated in January 2014 because these individuals will be able to purchase health insurance through the California Health Benefits Exchange as part of federal health care reform implementation.⁷

DEPARTMENT OF SOCIAL SERVICES (CDSS)

In-Home Supportive Services (IHSS)

- A total budget of \$5.447 billion, a net \$139 million decrease from 2011-12.⁸
- Elimination of “domestic and related services” (housework, shopping, and meal preparation) for approximately 254,000 IHSS with some exceptions this would affect recipients whose need for any domestic or related service is “met in common” with other household members, including children under age 18 who live with a parent.
- An across-the-board 20 percent reduction in hours of service for the IHSS Program on April 1, 2012. The “trigger cuts” in the 2011-12 budget agreement imposed this reduction on January 1, 2012. A court injunction has thus far prevented the state from reducing hours.⁹
- All individuals receiving both MediCal and Medicare benefits (dual eligibles) will be required to enroll in managed care health plans for their MediCal benefits. The IHSS program will operate as it does today during 2012-13; all authorized IHSS benefits will be included in managed care plans. No IHSS savings are estimated to result from this proposal in 2012-13.¹⁰

Supplemental Security Income/State Supplementary Program (SSI/SSP)

- A total budget of \$2.799 billion, a increase of \$62 million over 2011-12.¹¹

⁷ 2012-13 Governor's Budget Highlights, Department of Health Care Services, January 6, 2012.

⁸ 2012-13 Governor's Budget, January 5, 2012.

⁹ Leak Results in Early Budget Release: Governor Makes Deep Cuts to the Safety Net and Assumes Voters Approve November Ballot Measure, California Budget Project, January 6, 2012.

¹⁰ Governor's Budget Summary 2012-13.

¹¹ 2012-13 Governor's Budget, January 5, 2012.

California Work Opportunity and Responsibility to Kids (CalWORKs)

The budget cuts the CalWORKs Program, which provides cash assistance for 1.1 million low income children by \$946.2 million through a combination of reduced grants in “child only” cases and a restructuring CalWORKs.

Specifically, the budget:

- Cuts the average monthly cash grant from \$463 to \$392, a 15.3 percent decrease, for families in which cash assistance is provided only on behalf of the children (“child-only” families) and to move child-only families into a new program outside of CalWORKs – the Child Maintenance Program – beginning in October 2012. The budget estimates that 296,000 families will be enrolled in the new program in 2012-13;
- Divides the existing CalWORKs Program into two subprograms: CalWORKs Basic, which would provide welfare-to-work services for adults who do not have sufficient hours of unsubsidized employment to meet federal work requirements; and CalWORKs Plus, which would serve adults meeting federal work participation requirements – 30 hours a week for most families; 20 hours a week for families with children younger than six – Through unsubsidized employment;
- Cuts the maximum period that CalWORKs participants can spend in welfare-to-work activities from 48 months to 24 months. CalWORKs Basic participants who do not move into unsubsidized employment that meets federal work participation requirements within 24 months would no longer receive welfare-to-work services and their grant payment would be reduced by the amount attributable to the adult. The children would shift into the Child Maintenance Program; and,
- Increases the monthly grant levels for CalWORKs Plus participants by setting the “earned income disregard” – the amount of earnings that can be excluded when calculating a participant’s monthly grant level – at the first \$200 of earned income plus 50 percent of additional income. Currently, the first \$112 plus 50 percent of any additional income is excluded. This change would translate into an average grant increase of \$44 for a family of three.¹²

¹² Leak Results in Early Budget Release: Governor Makes Deep Cuts to the Safety Net and Assumes Voters Approve November Ballot Measure, California Budget Project, January 6, 2012.

DEPARTMENT OF REHABILITATION (DOR)

Vocational Rehabilitation

- A total budget of \$400.5 million, an increase of \$6 million over 2011-12.

Independent Living Services

- A total budget of \$20.6 million, a decrease of \$86,000 over 2011-12.¹³

CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

Special Education

- Reduces 2011-12 funding for special education programs by \$24.3 million to reflect increased property tax revenue allocated to school districts due to the phase out of redevelopment agencies; and,
- Increases special education funding by \$12.3 million to reflect enrollment growth.¹⁴

CALIFORNIA COMMUNITY COLLEGES (CCC)

- Increase 2012-13 apportionment payments to partially restore previously deferred funding. The budget would not increase apportionment payments unless voters approve the tax measure the Governor seeks to place on the November ballot;
- Reduce 2011-12 apportionment funding to reflect increased property tax revenue allocated to community college districts due to the elimination of redevelopment agencies; and,
- Consolidate funding for nearly all categorical programs and allow community colleges to use the funds for any purpose.¹⁵

¹³ 2012-13 Governor's Budget, January 5, 2012.

¹⁴ Governor's Budget Summary 2012-13.

¹⁵ Leak Results in Early Budget Release: Governor Makes Deep Cuts to the Safety Net and Assumes Voters Approve November Ballot Measure, California Budget Project, January 6, 2012.

NOMINATING COMMITTEE TELECONFERENCE MEETING MINUTES
January 9, 2012

Members present:

Steve Silvius, Chairperson
Lisa Cooley
Dan Boomer

Members absent:

None

Staff present:

Melissa Corral

S. Silvius, Chairperson called the meeting to order at 10:03 am

S. Silvius established the quorum (**S. Silvius**, present at Kern Regional Center, 3200 Sillect Avenue, Bakersfield, CA 93308; **D. Boomer**, present at California Department of Education, 1430 N Street, Sacramento, CA 95814; **L. Cooley**, present at State Council on Developmental Disabilities, 1507 21st St, Suite 210, Sacramento, CA 95811.

All members introduced themselves.

S. Silvius called for public comments; none were made.

S. Silvius reported that he contacted all self and family advocates that currently sit on the Council. He received the responses of interest from: Jennifer Allen, Lisa Cooley, Kerstin Williams, Ray Ceragioli and Patti O'Brien.

It was moved, seconded (Silvius/Cooley) and carried to accept all interested persons into the slate of nominees for election of Vice-Chairperson for the term ending in December 2012. Roll call vote was taken: S. Silvius- Yes D. Boomer – Yes; L. Cooley – Yes.

Meeting was adjourned.

COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: Sponsorship Request from Supported Life Institute.

BACKGROUND: The California State Council on Developmental Disabilities (SCDD) supports events that promote self-advocacy, leadership and education, thereby enabling people with developmental disabilities and their family members to expand their knowledge and skills. Toward that goal, organizations may apply for Council sponsorships for events that promote consumer and family self-advocacy.

The attendance for last year's Annual Assistive Technology Expo & Training Expo (AT Expo) was 212 people, which exceeded expectations, and included individuals with developmental disabilities, family members, and attendants.

ANALYSIS/DISCUSSION: Supported Life Institute is requesting a sponsorship of \$999.00 to help keep registration fees low for consumers and family members. The 2nd Annual Assistive Technology Expo & Training will be held at the Unitarian Universalist Society of Sacramento auditorium on March 20, 2012.

The conference is designed for individuals with disabilities, families, speech therapists, educators and support agencies. The conference will provide:

- Training of basics of Assistive Technology (AT)
- Features Augmentative and Alternative Communication (AAC)
- Offers hands-on technology demonstrations from key AAC vendors/providers of communication devices and other mobility and accessibility services and products
- Offers the opportunity to try a wide range of devices as a part of "Techsploration"

This event allows individuals to see, try, and learn about improved communication options. Communication is the key for a person to advocate for themselves.

COUNCIL STRATEGIC PLAN GOAL/OBJECTIVE: Goal #2: Objective 2b)
Individuals with developmental disabilities, their families and their support and/or professional staff will increase their knowledge and skills so as to effectively access needed educational and/or community-based services through at least 225 trainings, conferences, workshops, webinars, and/or resource materials developed by the Council on topics such as rights under IDEA, rights under California's Lanterman Act etc. on an annual basis.

PRIOR COUNCIL ACTIVITY: Since the beginning of FY 2011-12, the Council has awarded \$999.00 for sponsorship requests. The Council allocates \$25,000 per fiscal year for sponsorships. The fiscal year began July 1, 2011.

STAFF RECOMMENDATION: Award \$999 to Supported Life Institute to support families of individuals with developmental disabilities to participate a training event on March 20, 2012.

ATTACHMENTS(S): SCDD sponsorship policy, Supported Life Institute request, sponsorship budget, and support letters.

PREPARED: Kristie Allensworth January 10, 2012



Ms. Carol Risley, for Executive Committee
Calif. State Council on Developmental Disabilities
1507 – 21st St., Ste 210
Sacramento, CA 95811



Sponsorship Request – 12/13/11 for Event 3/20/12:

The Supported Life Institute is planning our 2nd Annual Assistive Technology Expo & Training (“AT Expo”) to be held at the Unitarian Universalist Society of Sacramento Auditorium on March 20, 2012. SCDD was a Sponsor for our inaugural AT Expo to help keep registration fees down to allow consumers and family members to better able to afford to attend.

This one-day conference

- ~ is designed for individuals with disabilities, families, speech therapists, educators, support agencies
- ~ provides training on basics of Assistive Technology (AT) and opportunities that high, mid and low technologies offer persons with disabilities
- ~ features Augmentative and Alternative Communication (AAC)
- ~ offers hands-on technology demonstrations from key AAC Vendors/providers of communication devices and other mobility and accessibility services and products.
- ~ offers the opportunity to try out a wide range of devices as part of a “Techsploration” put on by the Supported Life Institute’s Communication Technology Education Center (CTEC)

Effective Freedom of Speech:

Freedom of speech is a useless right if you can’t be understood. Having access to communication devices to speak is crucial for many people who have been unable to effectively express themselves with their voice, due to a variety of developmental disabilities, such as cerebral palsy, autism, and others. Numerous requests for such an event in the Northern California area (some people attend an excellent CSUN event held in Southern Calif.) led to our first Assistive Technology Expo & Training in 2011.

This event allows individuals to see, try, and learn about improved communication options. Communication is the key for a person to advocate for themselves. Otherwise, control and choice remains in the hands of others who must select any services and supports for that person. Without effective communication, people often end up with something other than what they want and need, something that may not work for them.

We train self-advocates. We also train family members and professionals about communication options and how to get proper assessments for the person they support to see what will benefit them - and how to secure funding for communication devices or other communication systems. Lives can be changed for families. One parent (who also works in this field) sheepishly admitted that he had



resignedly given up on his own child's chance to communicate effectively, until he heard one of our AT Expo parent speakers explain the tribulations – and eventual success – of her adult son in finding and using a device that works for him!

Use of SCDD Funding:

We will use the funds to keep the registration fee down for everyone, particularly consumers and families. Sponsorships helped us do that last year, which is part of the reason that the event could draw so many people with disabilities and family members who were thirsting for this information.

Attendees Last Year:

We expected about 100 people to sign up for our first-time event this past year. So we were thrilled and gratified that this was a key event when 212 people registered for the 4/28/11 AT Expo. Of these, 25 were people with disabilities, many of whom use augmentative and alternative communication to speak. 15 attendants came with these attendees. 23 family members came to learn about the options, sometimes with their son or daughter. The 149 remaining were a wide variety of professionals. We were able to offer Continuing Education Units (CEUs) for speech and language pathologists who work with people with disabilities and over 2 dozen attended. There were teachers and Assistive Technology Specialists from both School Districts and County Offices of Education. Many agency staff members came – from directors to direct support staff - from supported living and independent living services, day programs, and group homes.

Outreach:

We send information about the Expo to hundreds of people who have attended one of our events at our CTEC assistive technology center since we started 3 years ago. In addition, we do outreach to thousands of self-advocates and families who have attended the Supported Life Conference or the California Statewide Self-Advocacy Conference over the past few years. We also approach those who attended one of our AAC "Communication Workshops" we held years ago.

Requested Amount: \$999

We hope to bring in about \$4000 in Exhibitor Fees, plus over \$9000 in registration fees. We hope to supplement that with \$4000 in sponsorships. This \$999 from the State Council will supplement the \$1500 we have been granted by the CVS/Caremark company. Plus we hope to receive the balance from other agencies, such as AT Expo 2011 sponsors, Cal-TASH and InAlliance (whom we worked with on a "Communicate to Work" Department of Rehab-funded project last year), and new service agencies we might approach to partner with this year.

We are hoping these will cover our \$17,000 worth of projected expenses for Meeting Room Rental, Meal costs for attendees, Audiovisual Equipment, Speaker Fees and Travel, Printing and Postage costs for outreach, and Staff time to plan and put on the event.



SCDD Past Support:

We requested and received a \$999 sponsorship for our 1st Assistive Technology Expo this past year.

Letter of Support:

Please see enclosed a letter of support from the WarmLine Family Resource Center, a well-respected family self-advocacy agency located here in Sacramento.

Acknowledgement:

We are happy to let attendees know that consumer and family participation in the event is made possible in part by funding from the California State Council on Developmental Disabilities. Please see enclosed a copy of the packet piece and brochure in which the State Council has top billing as a cosponsor of the event. (We will add this year that the "consumer and family participation" wording requested under your new sponsorship policies.)

Thank you for your consideration of our request. We look forward to the possibility of partnering with the State Council on Developmental Disabilities for this important event to further communication empowerment for individuals with developmental disabilities.

Andy Faletti

Andy Faletti, Project Coordinator
Supported Life Institute
2025 Hurley Way, Ste 105
Sacramento, CA 95825

916-567-1974 x 201
afaletti@supportedlife.org



~ Our First ~

Assistive Technology Expo & Training

Communication, Mobility and Access

Thursday April 28, 2011

Presented by:

Supported Life Institute's

Conference Division and our

Communication Technology Education Center (CTEC)

with

InAlliance's

"Communicate to Work" (CTW) project

(which is funded by Dept. of Rehabilitation)

COSPONSORS:

State Council on Developmental Disabilities

WarmLine Family Resource Center

Community Partners

Area Board 3

Cal-TASH

Sacramento County Office of Education

SEEDS Project (through SCOE)

- - Thank you for Your Generosity and Support - -



WarmLine Family Resource Center

2025 Hurley Way #100, Sacramento, CA 95825

916-922-9276/800-660-7995 Fax: 916-922-9341

www.warmlinefrc.org / email: warmline@warmlinefrc.org



Ms. Carol Risley
Calif. State Council on Developmental Disabilities
1507 – 21st St., Ste 210
Sacramento, CA 95811

Dear Ms. Risley,

We are writing to endorse the efforts of the Supported Life Institute to improve consumer and family self-advocacy by increasing education and training in the use of assistive technology and augmentative and alternative communication.

The WarmLine Family Resource Center's mission is to provide information, education and support to promote and strengthen the foundation of families and children with special needs so they can face the challenges of the present and create new dreams for the future. Since 1993 we have provided this support to families in six counties (Sacramento, Placer, Yolo, Nevada, EL Dorado and Alpine).

We are pleased to hear that SLI is planning a 2nd Annual Assistive Technology Expo & Training. We were fortunate to have a grant last year to be a co-sponsor of their first AT Expo in 2011 to educate parents in Alta Regional Center's Prevention program about communication and technology options. We support the Supported Life Institute's efforts to find the funding to put on this event again.

In attending this extraordinary event last year, we found that families gained a better understanding of the benefits of assistive technology and learned strategies to incorporate it's use in their child's development and daily life. Parents also commented that they felt more confident in their decision-making abilities and were better able to advocate for their child's assistive technology needs.

Further, my daughter uses a communication device and this event provided me with a new vision of independence for my child. The impact of this realization cannot be underscored enough, this is a vision that all parents share.

We recommend that you support these efforts to make self-advocacy and communication become realities for consumers and parents who try so hard to find the information needed to be effective parent advocates.

Sincerely,

Kelly Young
Executive Director
WarmLine Family Resource Center

"Serving Families and Professionals Involved with Children with Special Needs."



Register Today !

~ Our First ~

Assistive Technology Expo & Training

Communication, Mobility and Access

Thursday April 28, 2011

Sacramento Red Lion Hotel at Arden Village

Presented by:

Supported Life Institute's Communication Technology Education Center (CTEC) and InAlliance's "Communicate to Work" (CTW) project (funded by Dept. of Rehabilitation)



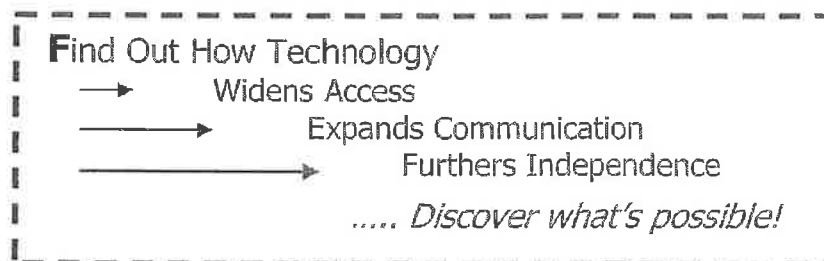
Cosponsors:

California State Council on Developmental Disabilities
WarmLine Family Resource Center

Community Partners:
Cal-TASH, Area Board 3

This one-day conference

- ~ provides training on basics of Assistive Technology (AT) and opportunities that high, mid and low technologies offer persons with disabilities
- ~ features Augmentative and Alternative Communication (AAC)
- ~ is designed for families, speech therapists, educators, agencies, and individuals served
- ~ offers hands-on technology demonstrations



Besides learning from exhibit faire vendors, participants may choose from three concurrent workshop strands

Discover innovative approaches for:

- + language production,
- + + assisted communication
- + + + improved access

Speech-Language Pathologists:
CEUs Available
(see details inside)

Conference Agenda

8:00-9:30 a.m.

Registration, Coffee,
Exhibit Fair

9:30-10:15

Session #1

10:30-11:15

Session #2

11:15-12:00

Exhibit Fair

12:00-1:00 p.m.

Lunch

1:00-1:30

Exhibit Fair

1:30-2:30

AAC Users Speak Out

2:45-3:30

Session #3



Location

Sacramento Red Lion Hotel at Arden Village

1401 Arden Way, Sacramento 95815

(turn into Arden Fair Mall parking lot in front of Sears)

916-922-8041

Parking at hotel is free.

Hotel Room?: \$84.00 plus tax

(mention "Supported Life Institute")

Sessions include:

Communicate to Work - Parts 1 and 2

- **AAC Training, Consultation & Mentoring**
- **Applying AAC to Enhance Independence and Employability**

CTEC Team:

Kristen Carroll, CCC-SLP
Bonnie Mintun, Family AAC Specialist
Ceasar Seabron, AAC Mentor

AT at Work - Modifications, Computer Adaptations, Voice Recognition & More

Jeff Symons, Rehabilitation Engineer

MOVE - Mobility Opportunities Via Education for Children and Adults - Don't Stop Believing!

Sheila Wolfe, Occupational Therapist & MOVE Internat'l Trainer, Sacramento Co. Office of Ed.

Sharon Holstege, Principal & MOVE Internat'l Trainer, Sacramento Co. Office of Education

Disability: There's an App for That

Shane Nurnberg, Technology Manager, Parent, Rowell Family Empowerment Center

"Walk the Walk" and "Talk the Talk" - Communicate To Work Mentors

Kristen Lyall, AAC Mentor Coordinator

Gena Bellino, AAC Mentor

Kate Iliff, AAC Mentor

Birth to 3 Strand: Sponsored by WarmLine Family Resource Center - Parts 1 and 2

- **Creating an Assistive Technology Toolkit to Support Learning**

- **AT ToolKit: Baggie Book Make & Take**

Kathleen C. Sadao, Ed.D., Program Specialist, SEEDS Project, Sacramento Co. Office of Ed.

Plus: **Select AAC Vendor Presentations**

AT = Assistive Technology

AAC = Augmentative & Alternative Communication

Questions?

Contact Supported Life Institute

916-567-1974

info@supportedlife.org

www.supportedlife.org

*SPEECH IS THE MOST IMPORTANT
THING WE HAVE. IT MAKES US A
PERSON AND NOT A THING.
NO ONE SHOULD EVER HAVE TO
BE A THING.*

DOREEN JOSEPH

Registration

(Includes coffee service and lunch)

\$35.00

\$40 with SLP* CEUs

Day-of-Event Registration (4/28/11)

(Includes coffee service and lunch)

\$40.00

\$45 with SLP* CEUs

Refund Policy:

*Written cancellations prior to April 22, 2011 subject
to a 50% administrative fee.*

*Later cancellations incl. 'no-shows' not refundable
Participant substitutions welcome w/ advance notice*

Questions?

Supported Life Institute office:

phone: (916) 567-1974

email: info@supportedlife.org

web: www.supportedlife.org

*Attention Speech Pathologists

As approved by California Speech-Language Pathology & Audiology Board, Supported Life Institute is an accredited Continuing Professional Development Provider (PDP 241) of credits for speech-language pathologists/audiologists.

Earn up to 5 Hours of CEUs

"Introductory Level, Professional Area"

(add \$5.00 processing charge to registration fee)

Learning Outcomes - Attendees will be able to:

- Discuss features of varying AAC/AT systems
- Determine appropriate vocabulary organization for AAC implementation
- Identify AAC/AT options across the lifespan

Registration Form - AT Expo & Training

Please copy & send separate form for each applicant.

Complete and mail with payment to

Supported Life Institute

2025 Hurley Way, Suite 105

Sacramento, CA 95825

1. Name

2. Affiliation or Agency (for name badge)

3. Address

4. City, State, Zip Code

5. Daytime Telephone

()

6. Are you a:

- ☐ Person with a Disability ☐ Professional ☐ Family Member
☐ Other

7. Registration Fees Enclosed: \$

8. Do you prefer a vegetarian lunch? ☐ Yes ☐ No

9. By 4/10/11, tell us about any accommodations you may need,
such as sign language interpreting (*please specify*):

10. Checks/money orders payable to "Supported Life Institute"

Paying by Credit Card?

Please go to www.supportedlife.org
for our On-line registration.





Supported Life Institute
2025 Hurley Way, Ste 105
Sacramento, CA 95825

Non-Profit Org.
U.S. Postage
PAID
Sacramento, CA
Permit 1309



Register Today for April 28th Assistive Technology Expo & Training



COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: Sponsorship Request from Tarjan Center.

BACKGROUND: The California State Council on Developmental Disabilities (SCDD) supports events that promote self-advocacy, leadership and education, thereby enabling people with developmental disabilities and their family members to expand their knowledge and skills. Toward that goal, organizations may apply for Council sponsorships for events that promote consumer and family self-advocacy.

The Council co-sponsored a similar conference in March of 2010 that was incredibly successful. Many of the participants who attended that event continue to be engaged in collaborative efforts forward to support access to and participation in postsecondary education for individuals with intellectual disabilities and autism.

ANALYSIS/DISCUSSION: Tarjan Center is requesting a sponsorship of \$999.00 to support the registration and/or travel of family members, self advocates, postsecondary education and other agency professionals to attend a working conference, "Supporting Students with Autism and Intellectual Disabilities in Postsecondary Education as a Pathway to Employment Conference" on March 13, 2012. This conference's focus is consistent with the State Council's efforts in transition and employment. Individuals from communities across California will participate as teams comprised of two or more representatives from college or university disability support offices, transition specialists, education administrators, rehabilitation counselors, regional center administrators and counselors, parents, persons with disabilities and their advocates. Teams will engage in discussions and planning related to support services needed by individuals with intellectual disabilities (ID) and autism to access postsecondary educations (PSE) as a pathway to competitive integrated employment.

Self advocates and family members will learn how public policy has changes to reflect their demands for greater choice in PSE options. The conference will promote inclusive educational practices that are consistent with the Higher Education Opportunity Act (HEOA of 2008).

It is anticipated that one hundred participants will attend the conference.

COUNCIL STRATEGIC PLAN GOAL/OBJECTIVE: Goal #2: Individuals with developmental disabilities and their families become aware of their rights and receive the supports and services they are entitled to by law across the lifespan, including early intervention, transition into school, education, transition to adult life, adult services and supports, and senior services and supports.

Objective 2b) Individuals with developmental disabilities, their families and their support and/or professional staff will increase their knowledge and skills so as to effectively access needed educational and/or community-based services through at least 225 trainings, conferences, workshops, webinars, and/or resource materials developed by the Council on topics such as rights under IDEA, rights under California's Lanterman Act etc. on an annual basis.

PRIOR COUNCIL ACTIVITY: Since the beginning of FY 2011-12, the Council has awarded \$999.00 for sponsorship requests. The Council allocates \$25,000 per fiscal year for sponsorships. The fiscal year began July 1, 2011.

STAFF RECOMMENDATION: Award \$999 to Tarjan Center to support families of individuals with developmental disabilities to participate a training event on March 13, 2012.

ATTACHMENTS(S): SCDD sponsorship policy, Tarjan Center sponsorship request, sponsorship budget, and support letters.

PREPARED: Kristie Allensworth January 10, 2012



December 13, 2011

California State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95814
Attn: Carol Risley

Dear Ms. Risley:

Enclosed please find an application for sponsorship of an upcoming working conference, *"Supporting Students with Autism and Intellectual Disabilities as a Pathway to Employment"*. We only confirmed that we would be holding the conference today and wanted to immediately offer the opportunity for the Council to co-sponsor this event.


The State Council co-sponsored a similar conference in March of 2010 that was incredibly successful. Many of the participants who attended that event continue to be engaged in moving collaborative efforts forward to support access to and participation in postsecondary education for individuals with intellectual disabilities and autism.

We appreciate your continued support through sponsorship of these conferences, as it models for local communities the extent to which agency coordination and collaboration can shape public policy and improve the lives of people with development disabilities.

As you know, I represent the Tarjan Center, a University Center for Excellence in Developmental Disabilities, on the State Council. Please note, neither faculty nor staff of the Tarjan Center will benefit from receipt of the sponsorship funds being requested. Funds received from SCDD will be used solely for the purposes of registration and/or travel for self advocates, family members or professionals to attend the conference.

We look forward to your favorable consideration and thank you for your continued support.

Sincerely,


Olivia Raynor, Ph.D.

December 13, 2011

California State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95814
Attn: Carol Risley

Re: SCDD Agency/Organization Sponsorship

The Tarjan Center requests \$999 in sponsorship funding to support the registration and/or travel of family members, self-advocates, postsecondary education and other agency professionals to attend a working conference, *"Supporting Students with Autism and Intellectual Disabilities in Postsecondary Education as a Pathway to Employment"*. This conference's focus is consistent with the State Council's efforts in transition and employment. This letter provides information below as required by SCDD Sponsorship Section B (a-g). Sections A-G corresponds to the information required by SCDD Sponsorship Policy.

A. Name, date, location and description of the conference

In collaboration with the Tarjan Center at UCLA, the California Consortium for Postsecondary Education for People with Developmental Disabilities, Center for Disability Studies at the University of Hawaii and Think College National Consortium for Postsecondary Education for Individuals with Developmental Disabilities will host the *"Supporting Students with Autism and Intellectual Disabilities in Postsecondary Education as a Pathway to Employment Conference"* on March 13, 2012. The working conference will be held at the University of California, Davis MIND Institute located at 2825 50th Street Sacramento, CA 95817. Individuals from communities across California will participate as teams comprised of two or more representatives from college or university disability support offices, transition specialists, education administrators, rehabilitation counselors, regional center administrators and counselors, parents, persons with disabilities and their advocates. Teams will engage in discussions and planning related to support services needed by individuals with intellectual disabilities (ID) and autism to access postsecondary education (PSE) as a pathway to competitive integrated employment.

B. Describe how this conference will increase the ability of consumers and family members to exercise control, choice and flexibility in the services and supports they receive, including a description of the specific way SCDD's funding would be utilized.

Self advocates and family members will learn how public policy has changed to reflect their demands for greater choice in PSE options. The conference will promote inclusive educational practices that are consistent with the Higher Education Opportunity Act (HEOA) of 2008. Key elements of the HEOA include self determination and choice around students' course of study, indicators of progress, and inclusive education. The conference will provide an opportunity for self advocates to become aware of supports that allow for inclusive participation in PSE and training needed to compete and secure competitive employment in careers of their choice. For example, participants will learn how current technological tools (i.e. iPad, Iphone) are being used to support learning. In addition, self advocates and family members will participate on community planning teams with representatives from K-12 districts, higher education and agencies to provide input and insight about educational choices and vocational options. They will contribute to the planning process as stakeholders and be involved in the action planning that is an integral part of the conference.

C. The number and type of expected attendees (i.e. teachers, providers, administrators, etc.), including how many are expected to be consumers and family members

It is anticipated that one hundred participants will attend the working conference comprised of representatives from the following: approximately 25% from two & four year colleges; 15% K-12 school district personnel, 15% rehabilitation counselors, 15% regional center administrators and counselors, 30% consumers, parents, advocates and other interested parties.

D. How you will conduct outreach to increase self advocate and family involvement in the conference

Invitations targeted at two and four year colleges, school districts, rehabilitation and regional centers will specifically request self advocates and parents be invited to participate as part of the 'planning teams'. Invitations will be distributed via agency listservs. Fliers will be made available through mass distributions at regional conferences, transition fairs, meeting events and through the California Consortium on Postsecondary Education for People with Developmental Disabilities network. An announcement will be placed on the Tarjan Center's Open the Doors to College website. Disability focused interest groups will be contacted and provided with fliers for distribution to consumers and family members.

E. A complete and total budget, including the amount you are requesting (\$999 limit), details on the amount and sources of other funds solicited or obtained

Exhibit A includes a complete and total budget detailing how SCDD sponsorship funds will be used. Sponsorship funding will cover the cost of travel, self advocates, family members and professionals from California counties outside the Sacramento area.

F. A list of other SCDD sponsorships and grants you have previously requested and/or received

In 2009 requested funding and received funding from the State Council to support the first Think College© sponsored Working Conference on "Supporting Students with Autism and Intellectual Disabilities in Postsecondary Education for Success" attended by more than one seventy consumers, advocates and professionals from two and four year colleges, DOR, K-12 school districts, regional centers and other agencies.

In 2005 the Tarjan Center received a contract to conduct an internal survey towards the development of California's State Council on Developmental Disabilities' Strategic Plan. The California Consortium for Postsecondary Education for People with Developmental Disabilities under the auspices of the Tarjan Center requested and received funding in 2007 from the State Council on Developmental Disabilities in the form of a Cycle 30 Community Development Grant. Other contracts and grants were received more than five years ago.

G. A letter of recommendation from a consumer and/or family organization that supports your efforts to improve consumer and family self-advocacy

Exhibit B includes a letter of recommendation from Kecia Weller, an advocate who serves in leadership roles for multiple organizations and advocates for consumer choice and options in postsecondary education and employment. Ms. Weller is an adjunct teaching assistant at the University of California Los Angeles Extension Pathway Program for students with ID and autism, where she teaches US government. Kecia is a person with a developmental disability.

In accordance with sponsorship requirements, the Tarjan Center at UCLA, the Center for Disability Studies at the University of Hawaii and Think College© National Consortium for Postsecondary Education for Individuals with Developmental Disabilities will provide acknowledgement that consumer and family participation in the event is made possible, in part, with funding from the California State Council on Developmental Disabilities. After the event, we will submit a written report to the State Council on Developmental Disabilities describing outcomes achieved and how consumers and families participated and benefited from the conference.

December 13, 2011

California State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95814
Attn: Carol Risley

Re: Letter of recommendation in support of the Tarjan Center's request for SCDD Sponsorship to Promote Consumer and Family Participation and Self Advocacy at the Working Conference on Supporting Students with Autism and Intellectual Disabilities in Postsecondary Education as a Pathway to Employment

To Whom It May Concern:

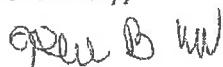
I am writing this letter to ask the State Council on Developmental Disabilities to support the Tarjan Center's upcoming conference. I have been a member of the Tarjan Advisory Council (TAC) for the past nine years. My main responsibility is to serve as the TAC membership chair and to mentor new members. At this time I am also the advocacy director for People First of California.

Being a voice at the table has been an important part of my life and allows me to guide the Tarjan Center and give input on their postsecondary education work and other important areas. I think this conference will allow people with disabilities to express their opinions. I think it is important for people with developmental disabilities to know their options. This conference will give people with disabilities a chance to speak with experts and I think that is very good.

What I like about going to a conference like this one is networking because that is important for people with disabilities. Getting to meet and greet people and to talk about postsecondary education and employment is very important.

I think it is an excellent idea for the State Council to fund and support this conference in any way you can. Some people with disabilities, counselors, teachers and others may need transportation to attend. If you can help them, that would be great.

Sincerely,



Kecia B. Weller